

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
Civil Action# 07-3240

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Page 770 ~ b6; b7C;
Page 771 ~ b6; b7C;
Page 772 ~ b6; b7C;
Page 773 ~ b6; b7C;

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X Deleted Page(s) X
X No Duplication Fee X
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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

U. S. Department of Justice

(MATERIAL MUST NOT BE REMOVED FROM OR ADDED TO THIS FILE)

FEDERAL BUREAU

of

INVESTIGATION

**DO NOT
DESTROY**

FOIPA # 1049408

USE CARE IN HANDLING THIS FILE

Transfer-Call 3421



161-HQ-15392-1M

SERIALS 1-

161-HQ-15392

SECTION 1

NO CLASSIFICATION PER OGA LETTER
DATED 06-11-2007

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-19-2007 BY AUC 60324/BAW/STP/cld

Airtel

3/27/81

Director, FBI

SAC, Washington Field - Enc. 3
Alexandria - Enc. 2
Baltimore - Enc. 2
New Haven - Enc. 2
Sacramento - Enc. 2
San Francisco - Enc. 2
St. Louis - Enc. 2

HERBERT EUGENE ELLINGWOOD
SPECIAL INQUIRY
BUDED: APRIL 8, 1981 (B)

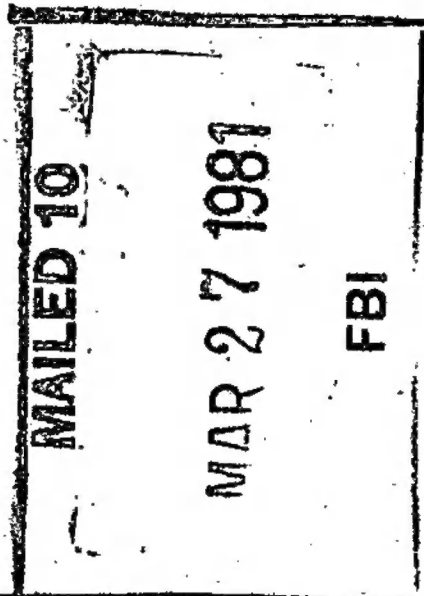
Bureau has been requested to conduct investigation of Ellingwood who is being considered for White House staff position. Born March 5, 1931, Ordway, Colorado, and resides 3523 Buckskin Court, Rocklin, California. SF-86 and records release enclosed.

79-Sent
Ident (SF-86)
PR 3-31-81 per
Kotthaus

b3

Sacramento, as principal office, insure at least twenty persons knowledgeable re appointee are interviewed.

SPIN



DE-89

Y-21

N/61-15392-1

7 MAR 31 1981

b6

b7C

BCL:icw (VI)
(17)

NOTE: Request received 3/25/81 from Fred Fielding, Cour Third Party the President.

RETURN TO

ROOM 5161

MAIL ROOM

FBI/DOJ

Exec AD Inv. _____
Exec AD Adm. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

Third Party

Records Branch

MAR 30 1981, 19

- ☒ ~~Name~~ Searching Unit, 4543, TL# 115
☐ Service Unit, 4654, TL# 225
☐ Special File Room, 5991, TL# 142
☒ Forward to File Review 5447 TL# 143
☐ Attention
☒ Return to

Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Subversive & Nonsubversive)
☐ Subversive Search
☐ Nonsubversive Search
☐ Main _____ References Only
☐ Exact Name Only (On the Nose)
☐ Buildup ☒ Variations
☐ Restricted to Locality of _____

Subject ELLINGWOOD, HERBERT EUGENE
 Birthdate & Place _____
 Address _____

Localities

R# 606 Date 3/30 Searcher Initials 125
Prod. 1 NR

FILE NUMBER

SERIAL

Herbert
✓ 100-439048-67-33p #1 OK

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

MAR 30 1981

FEDERAL BUREAU OF INVESTIGATION Third Party
Records Branch

MAR 30 1981

, 19

- ☒ Name Searching Unit, 4543, TL# 115
☐ Service Unit, 4654, TL# 225
☐ Special File Room, 5991, TL# 142
☒ Forward to File Review 5447 TL# 142
☒ Attention
☒ Return to

Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Subversive & Nonsubversive)
☐ Subversive Search
☐ Nonsubversive Search
☐ Main _____ References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☐ Restricted to Locality of _____

Subject Ellingwood, Harry CliffordBirthdate & Place 1900Address Deceased

Localities _____

R# _____

Date 3/30Searcher 125

Initials

Prod. _____

FILE NUMBER

SERIAL

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

Records Branch

19

- Supervisor, Room, IL#, Ext.

FBI/DOJ

FEDERAL BUREAU OF INVESTIGATION

Records Branch
MAR 30 1981

, 19

- ☒ Name Searching Unit, 4543, TL# 115
☐ Service Unit, 4654, TL# 225
☒ Special File Room, 5991, TL# 142
☒ Forward to File Review, 5447, TL# 143
☒ Attention
☒ Return to

Supervisor, Room, TL#, Ext.

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- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Subversive & Nonsubversive)
☐ Subversive Search
☐ Nonsubversive Search
☐ Main _____ References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☐ Restricted to Locality of _____

Subject Ellingwood, Wayne
Birthdate & Place 1938
Address P.O. Box 505, Roodepoort Tvl.
1725 South Africa

Localities _____

R# _____ Date 3/30 Searcher 125
Initials _____

Prod. _____

FILE NUMBER

SERIAL

1512

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

Standard Form 86

AUGUST 1964
U.S. CIVIL SERVICE COMMISSION
(F.P.M. CHAPTER 736)
84-107SECURITY INVESTIGATION DATA
FOR SENSITIVE POSITION

CASE SERIAL NO. (CSC use only)

49

INSTRUCTIONS.—Prepare in triplicate, using a typewriter. Fill in all items. If the answer is "No" or "None," so state. If more space is needed for any item, continue under item 28.

1. FULL NAME (Initials and abridgements of full name are not acceptable. If no middle name, show "(NMN)"; if initials only, show "(no given or middle name)")	(LAST NAME) Ellingwood	(FIRST NAME) Herbert	(MIDDLE NAME) Eugene	2. DATE OF BIRTH March 5, 1931
	OTHER NAMES USED (Maiden name, names by former marriages, former names changed legally or otherwise, aliases, nicknames, etc. Specify which, and show dates used.) None no civil MB 3/31			3. PLACE OF BIRTH Ordway, Colorado
ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld				4. <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE
				5. HEIGHT 5'10"
				WEIGHT 180
				COLOR EYES Blue
				COLOR HAIR Blond

6. <input type="checkbox"/> SINGLE <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> WIDOW(ER) <input type="checkbox"/> DIVORCED	7. IF MARRIED, WIDOWED, OR DIVORCED, GIVE FULL NAME AND DATE AND PLACE OF BIRTH OF SPOUSE OR FORMER SPOUSE. INCLUDE WIFE'S MAIDEN NAME. GIVE DATE AND PLACE OF MARRIAGE OR DIVORCE. (Give same information regarding all previous marriages and divorces.) Audrey Alice Kesler; Cass, West Virginia; August 19, 1932; married April 13, 1957, Baltimore, Maryland
--	--

8. DATES AND PLACES OF RESIDENCE. (If actual places of residence differ from the mailing addresses, furnish and identify both. Begin with present and go back to January 1, 1937. Continue under item 28 on other side if necessary.)

FROM	TO	NUMBER AND STREET	CITY	STATE
8/79	Present	3523 Buckskin Court	Rocklin	California
4/74	8/79	7595 Auburn Folsom Road	Loomis	California
9/73	3/74	235 Macario Ct, #3	Roseville	California
6/73	9/73	2751 Paseo Rio Way	Sacramento	California
6/67	5/73	5401 Shelley Way	Carmichael	California
1/67	6/67	Various Apartments	Sacramento	California
1961	1966	18349 Almond Road	Castro Valley	California
1957	1960	41241 Roberts Avenue	Fremont	California
1942	1957	2 Maher Road	Watsonville	California
1937	1942	101 Highway	Aromas	California

9. <input checked="" type="checkbox"/> U.S. CITIZEN <input type="checkbox"/> ALIEN	<input checked="" type="checkbox"/> BY BIRTH	<input type="checkbox"/> NATURALIZED	ALIEN REGISTRATION NO.	DATE, PLACE, AND COURT
	CERT. NO.		PETITION NO.	
	<input type="checkbox"/> DERIVED-PARENTS CERT. NO(S).			
	REGISTRATION NO.	NATIVE COUNTRY	DATE AND PORT OF ENTRY	

10. EDUCATION. (All schools above elementary.)

NAME OF SCHOOL	ADDRESS	FROM (Year)	TO (Year)	DEGREES
Salinas Union High School	Salinas, Calif.	1945	1949	Diploma
Yale University	New Haven, Conn.	1949	1953	BA NH
Stanford Law School	Stanford, CA	1957	1960	LLB SF

MAR 31 1981

11. THIS SPACE FOR FBI USE. (See also item 29.)

BASED UPON INFORMATION FURNISHED,
A SEARCH OF THE IDENTIFICATION
DIVISION FILES FAILED TO DISCLOSE
ANY IDENTIFIABLE INFORMATION.

12. SOCIAL SECURITY NUMBER 726 09 4567

13. MILITARY SERVICE (Past or present)

SERIAL NO. (If none, give grade or rating at separation)	BRANCH OF SERVICE (Army, Navy, Air Force, etc.)	FROM (Yr.)	TO (Yr.)
First Lt.	Army	1953	1956

SL/BR

THE WHITE HOUSE
WASHINGTON

b6
b7C
Third Party

TO: FBI, LIAISON
FROM: FRED F. FIELDING
SUBJECT: FBI Investigations

March 23, 1981
(Date)

*Boxed 4/8
V-4/20
S-4/22*

Subject's Name ELLINGWOOD, HERBERT E. (SS# 726-09-4567)

Date of Birth March 5, 1931 Place of Birth Ordway, Colo.

Present Address 3523 Buckskin Court, Rocklin, California

We request: _____ Copy of Previous Report
_____ Name Check
X Full Field Investigation NO IRS TO FBI
(2 copies please)

The person named above is being considered for:

X White House Staff Position
_____ Presidential Appointment

Attachments:

X SF 86 1 2
_____ SF 87, Fingerprint Card

Remarks/Special Instructions:

PLEASE EXPEDITE

MAR 24 REC'D

*Airtel to WFO
AX
BA
NH
SC
SF
SL*

*BCL:ICW
3/27/81*

ENCLOSURE

161-15392-1

Standard Form 86

AUGUST 1964
U.S. CIVIL SERVICE COMMISSION
(F.P.M. CHAPTER 736)
86-107SECURITY INVESTIGATION DATA
FOR SENSITIVE POSITION

CASE SERIAL NO. (CSC use only)

49

INSTRUCTIONS.—Prepare in triplicate, using a typewriter. Fill in all items. If the answer is "No" or "None," so state. If more space is needed for any item, continue under item 28.

1. FULL NAME (Initials and abridgements of full name are not acceptable. If no middle name, show "(NMN)"; if initials only, show "(no given or middle name)".)	(LAST NAME) Ellingwood	(FIRST NAME) Herbert	(MIDDLE NAME) Eugene	2. DATE OF BIRTH March 5, 1931
	OTHER NAMES USED. (Maiden name, names by former marriages, former names changed legally or otherwise, aliases, nicknames, etc. Specify which, and show dates used.) None			3. PLACE OF BIRTH Ordway, Colorado
ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld				4. <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE
				5. HEIGHT 5'10"
				WEIGHT 180
				COLOR EYES Blue
				COLOR HAIR Blond
6. <input type="checkbox"/> SINGLE <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> WIDOW(ER) <input type="checkbox"/> DIVORCED	7. IF MARRIED, WIDOWED, OR DIVORCED, GIVE FULL NAME AND DATE AND PLACE OF BIRTH OF SPOUSE OR FORMER SPOUSE. INCLUDE WIFE'S MAIDEN NAME. GIVE DATE AND PLACE OF MARRIAGE OR DIVORCE. (Give same information regarding all previous marriages and divorces.) Audrey Alice Kesler; Cass, West Virginia; August 19, 1932; married April 13, 1957, Baltimore, Maryland			

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4/74	8/79	7595 Auburn Folsom Road	Loomis	California
9/73	3/74	235 Macario Ct, #3	Roseville	California
6/73	9/73	2751 Paseo Rio Way	Sacramento	California
6/67	5/73	5401 Shelley Way	Carmichael	California
1/67	6/67	Various Apartments	Sacramento	California
1961	1966	18349 Almond Road	Castro Valley	California
1957	1960	41241 Roberts Avenue	Fremont	California
1942	1957	2 Maher Road	Watsonville	California
1937	1942	101 Highway	Aromas	California

9.	<input checked="" type="checkbox"/> BY BIRTH <input type="checkbox"/> NATURALIZED	ALIEN REGISTRATION NO.	DATE, PLACE, AND COURT
<input checked="" type="checkbox"/> U.S. CITIZEN	CERT. NO.	PETITION NO.	
	<input type="checkbox"/> DERIVED-PARENTS CERT. NO(S).		
<input type="checkbox"/> ALIEN	REGISTRATION NO.	NATIVE COUNTRY	DATE AND PORT OF ENTRY

10. EDUCATION. (All schools above elementary.)

NAME OF SCHOOL	ADDRESS	FROM (Year)	TO (Year)	DEGREES
Salinas Union High School	Salinas, Calif.	1945	1949	Diploma
Yale University	New Haven, Conn.	1949	1953	BA NH
Stanford Law School	Stanford, CA	1957	1960	LLB SF

11. THIS SPACE FOR FBI USE. (See also item 29.)

12. SOCIAL SECURITY NUMBER 726 09 4567	
13. MILITARY SERVICE (Past or present)	
SERIAL NO. (If none, give grade or rating at separation)	BRANCH OF SERVICE (Army, Navy, Air Force, etc.)
First Lt USAR	Army
FROM (Yr.)	TO (Yr.)
1953	1956

161-153925/SL/BA

14. HAVE YOU EVER BEEN DISCHARGED FROM THE ARMED FORCES UNDER OTHER THAN HONORABLE CONDITIONS? ☐ YES ☒ NO.
(If answer is "Yes," give details in item 28.)

15. EMPLOYMENT. (List ALL employment dates starting with your present employment. Give both month and year for all dates. Show ALL dates and addresses when unemployed. Give name under which employed if different from name now used.)

FROM	TO	NAME OF EMPLOYER (Firm or agency) AND SUPERVISOR (Full name, if known)	ADDRESS (Where employed)	TYPE OF WORK	REASON FOR LEAVING
7/1979	Present	Caldwell & Toms	812 J Street Sacramento, CA	Attorney	Appointment SC
1/1975	6/79	California Attorney General	555 Capitol Mall Sacramento, CA	Attorney	Private Practice
2/69	12/74	California Governor	State Capitol Sacramento, CA	Attorney	Elections
11/66	1/69	State Bar of California	455 Capitol Mall Sacramento	Legislative Representative	To Governor's Office
6/60	10/66	District Attorney Alameda County	Courthouse, Oakland, CA	Attorney	SF To State Bar

16. HAVE YOU EVER BEEN DISCHARGED (FIRED) FROM EMPLOYMENT FOR ANY REASON? ☐ YES ☒ NO.

17. HAVE YOU EVER RESIGNED (QUIT) AFTER BEING INFORMED THAT YOUR EMPLOYER INTENDED TO DISCHARGE (FIRE) YOU FOR ANY REASON? ☐ YES ☒ NO.
(If your answer to 16 or 17 above is "Yes" give details in item 28. Show the name and address of employer, approximate date, and reasons in each case. This information should agree with the statements made in item 15—EMPLOYMENT.)

18. HAVE YOU EVER BEEN ARRESTED, TAKEN INTO CUSTODY, HELD FOR INVESTIGATION OR QUESTIONING, OR CHARGED BY ANY LAW ENFORCEMENT AUTHORITY?
(You may omit: (1) Traffic violations for which you paid a fine of \$30 or less; and (2) anything that happened before your 16th birthday. All other incidents must be included, even though they were dismissed or you merely forfeited collateral.) ☐ YES ☒ NO.

IF YOUR ANSWER IS "YES," GIVE FULL DETAILS BELOW:

DATE	CHARGE	PLACE	LAW ENFORCEMENT AUTHORITY	ACTION TAKEN
------	--------	-------	------------------------------	--------------

YOU EVER HAD A NERVOUS BREAKDOWN OR HAVE YOU EVER HAD MEDICAL TREATMENT FOR A MENTAL CONDITION? ☐ YES ☒ NO.
(If answer is "Yes," give details in item 28.)

FOREIGN COUNTRIES VISITED (SINCE 1930). (Exclusive of military service.)

COUNTRY

DATE LEFT U.S.A.

DATE RETURNED U.S.A.

PURPOSE

See attachment A

AX

21. ARE YOU NOW, OR HAVE YOU EVER BEEN, A MEMBER OF THE COMMUNIST PARTY, U.S.A., OR ANY COMMUNIST OR FASCIST ORGANIZATION? ☐ YES ☒ NO.

22. ARE YOU NOW OR HAVE YOU EVER BEEN A MEMBER OF ANY FOREIGN OR DOMESTIC ORGANIZATION, ASSOCIATION, MOVEMENT, GROUP, OR COMBINATION OF PERSONS WHICH IS TOTALITARIAN, FASCIST, COMMUNIST, OR SUBVERSIVE, OR WHICH HAS ADOPTED, OR SHOWS, A POLICY OF ADVOCATING OR APPROVING THE COMMISSION OF ACTS OF FORCE OR VIOLENCE TO DENY OTHER PERSONS THEIR RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES, OR WHICH SEEKS TO ALTER THE FORM OF GOVERNMENT OF THE UNITED STATES BY UNCONSTITUTIONAL MEANS? ☐ YES ☒ NO.

23. IF YOUR ANSWER TO QUESTION 21 OR 22 ABOVE IS "YES," STATE THE NAMES OF ALL SUCH ORGANIZATIONS, ASSOCIATIONS, MOVEMENTS, GROUPS, OR COMBINATIONS OF PERSONS AND DATES OF MEMBERSHIP. IN ITEM 28 OR ON A SEPARATE SHEET TO BE ATTACHED TO AND MADE A PART OF THIS FORM, GIVE COMPLETE DETAILS OF YOUR ACTIVITIES THEREIN AND MAKE ANY EXPLANATION YOU DESIRE REGARDING YOUR MEMBERSHIP OR ACTIVITIES.

NAME IN FULL

ADDRESS

FROM

TO

OFFICE HELD

None

24. MEMBERSHIP IN OTHER ORGANIZATIONS. (List all organizations in which you are now a member or have been a member, except those which show religious or political affiliations.) (If none, so state.)

NAME IN FULL

ADDRESS

TYPE

FROM

TO

OFFICE HELD

See attachment B

25. RELATIVES. (Parents, spouse, divorced spouse, children, brothers, and sisters, living or dead. Name of spouse should include maiden name and any other names by previous marriage. If person is dead, state "dead" after relationship and furnish information for other columns as of time of death.)

RELATION	NAME IN FULL	YEAR OF BIRTH	ADDRESS	COUNTRY OF BIRTH	PRESENT CITIZENSHIP
Father	Harry Clifford Ellingwood	1900	Deceased	U. S.	Yes
Mother	Edith Arleene Ellingwood	1900	1763 GreenValleyRD Watsonville, CA	U. S.	Yes
Wife	Audrey Alice Kesler	1932	3523 Buckskin Ct Rocklin, CA	U. S.	Yes
Son	Edwin Bruce Ellingwood	1963	3523 Buckskin Ct Rocklin, CA	U. S.	Yes
Son	Thomas Barry Ellingwood	1967	3523 Buckskin Ct Rocklin, CA	U. S.	Yes
Sister	Juanita Ellingwood	1924	Deceased	U. S.	Yes
Sister	Pauline Nelson	1926	792 Echo Valley Rd Salinas, CA	U. S.	Yes
Sister	Mildred Chapman	1928	1763 GreenValleyRd Watsonville, CA	U. S.	Yes
Brother	Al Ellingwood	1935	1000 Highway 101, Aromas, CA	U. S.	Yes
Brother	Wayne Ellingwood	1938			

26a. REFERENCES. (Name three persons, not relatives or employers, who are aware of your qualifications and fitness.)

NAME IN FULL	HOME ADDRESS	BUSINESS ADDRESS	YEARS KNOWN
Rev. Orville Easterly	1041 Audrey Way, Roseville	202 Bonita Ave. Roseville, CA	7
Walter Hanson	4633 Whitney Avenue, Sacramento, CA		20
Steven Merksamer	4700 Olive Oak Way, Carmichael	555 Capitol Mall	15

26b. CLOSE PERSONAL ASSOCIATES. (Name three persons, such as friends, schoolmates or colleagues, who know you well.)

NAME IN FULL	HOME ADDRESS	BUSINESS ADDRESS	YEARS KNOWN
Peter DeMauro	142 Gold Oak Circle, Folsom, CA	555 Capitol Mall Sacramento	6
Flo Snyder	326 Rio Grande, Sacramento, CA	555 Capitol Mall Sacramento	6
Kay Eldridge	3790 Oakdale Ct, Rocklin, CA	812 J Street, Sacramento	12

27. TO YOUR KNOWLEDGE, HAVE YOU EVER BEEN THE SUBJECT OF A FULL FIELD OR BACKGROUND PERSONAL INVESTIGATION BY ANY AGENCY OF THE FEDERAL GOVERNMENT? ☒ YES ☐ NO. (If your answer is "Yes," show in item 28, (1) the name of the investigating agency (2) the approximate date of investigation, and (3) the level of security clearance granted, if known.)

28. SPACE FOR CONTINUING ANSWERS TO OTHER QUESTIONS. (Show item numbers to which answers apply. Attach a separate sheet if there is not enough space here.)

#27 - Counter Intelligence, 1954; top secret

29. REPORT OF INFORMATION DEVELOPED. (This space reserved for FBI use.)

DATE:

Before signing this form check back over it to make sure you have answered all questions fully and correctly.

CERTIFICATION

I CERTIFY that the statements made by me on this form are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

False statement on this form is punishable by law.

3/11/81
(DATE)

Kay Eldridge
(SIGNATURE—Sign original and first carbon copy)

INFORMATION TO BE FURNISHED BY AGENCY

INSTRUCTIONS TO AGENCY: See Federal Personnel Manual Chapter 736 and FPM Supplement 296-31, Appendix A, for details on when this form is required and how it is used. If this is a request for investigation before appointment, insert "APPL" in the space for Date of Appointment and show information about the proposed appointment in the other spaces for appointment data. The original and the first carbon copy should be signed by the applicant or appointee. Submit the original and the unsigned carbon copy of the form, Standard Form 87 (Fingerprint Chart), and any investigative information about the person received on voucher forms or otherwise, to the United States Civil Service Commission, Bureau of Personnel Investigations, Washington, D.C., 20415. If this is a request for full field security investigation, submit these forms to the attention of the Division of Reimbursable Investigations; if this is a request for preappointment national agency checks, submit these forms to the attention of the Control Section.

RETAIN THE CARBON COPY OF STANDARD FORM 86 (SIGNED BY THE APPLICANT OR APPOINTEE) FOR YOUR FILES

DATE OF APPOINTMENT	TYPE OF APPOINTMENT <input type="checkbox"/> EXCEPTED <input type="checkbox"/> COMPETITIVE (Include indefinite and temporary types of competitive appointments.)	CIVIL SERVICE REGULATION NUMBER OR OTHER APPOINTMENT AUTHORITY	TITLE OF POSITION AND GRADE OR SALARY
DEPARTMENT OR AGENCY	DUTY STATION	SEND RESULTS OF PREAPPOINTMENT CHECK TO:	
THIS IS A SENSITIVE POSITION			
(SIGNATURE AND TITLE OF AUTHORIZED AGENCY OFFICIAL)			

QUESTION 20:

AX

Foreign Countries Visited	Dates	Purpose
Canada	1953, 1957, 1976	Tourist
Mexico - Many times to Tijuana; latest in 1978		
England, Scotland, Ireland, France, West Germany, Switzerland, Lichenstein, Belgium, Luxemburg, Netherlands, Sweden, Spain, Monte Carlo, Italy, Austria, Saar	1955, 1956	Tourist While in Military
Taiwan	4/2/79 - 4/9/79 7/12/79 - 7/22/79 3/1/80 - 3/6/80 11/30/80 - 12/3/80 2/28/81 - 3/5/81	4/13/79 7/22/79 3/7/80 12/3/80 3/9/81
Philippines	4/11/79 - 4/13/79 2/28/80 - 3/1/80 6/7/80 - 6/8/80 3/5/81 - 3/6/81	4/13/79 3/7/80 6/8/80 3/9/81
HongKong	4/9/79 - 4/11/79 11/6/79 - 11/7/79 3/6/80 - 3/7/80 6/19/80 - 6/21/80	4/13/79 11/7/79 3/7/80 6/21/80
Korea	10/25/79 - 10/28/79	Tourist
China	October/November 1979 6/8/80 - 6/19/80	11/7/79 6/21/80
Singapore	3/6/81 - 3/9/81	3/9/81

S P E C I A L

FBI/DOJ

Question 24:

Membership in Other Organizations:

	Type	From - To	Office Held
State Bar of California 555 Franklin St., San Francisco	Professional	1960 to Present	SF Various Offices
American Bar Association 1800 M Street, N.W. Washington DC	"	1960 to Present	"
Sacramento County Bar Association 901 H Street, Sacramento, CA	"	1967 to Present	None
Placer County Bar Assn. 730 Sunrise Avenue, Roseville	"	1974 to Present	None
Christian Legal Society P. O. Box 2069, Oak Park, Ill.	"	1967 to Present	National President
Chabot College 2555 Hesperian Blvd., Hayward, CA	Education	Circa 1965	Instructor
Calif. Specialized Training Institute	Education	1972-1974	Member, Academic Bd.
Oakland Junior Chamber of Commerce Oakland, CA	Civic	1960-1967	Various Committees
Alpha Foundation 22556 Gilmore St., Canoga Park, CA	Education	1972 - Present	Director
Institute of Continuing Studies, California State University Sacramento, CA	"	1976 - Present	Member, Advisory Bd.
California Junior Statesmen of America Foundation 480 California Ave., Palo Alto CA	Education	1964 - Present	Various Offices

FBI Release

AUTHORITY TO RELEASE INFORMATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

TO WHOM IT MAY CONCERN:

I hereby authorize any Special Agent or other authorized representative of the Federal Bureau of Investigation bearing this release, or copy thereof, within one year of its date, to obtain any information in your files pertaining to my educational records including, but not limited to, academic, achievement, attendance, athletic, personal history, and disciplinary records; employment reports; and credit records. I hereby direct you to release such information upon request of the bearer. This release is executed with full knowledge and understanding that the information is for the official use of the Federal Bureau of Investigation. Consent is granted for the FBI to furnish such information, as is described above, to third parties in the course of fulfilling its official responsibilities. I hereby release you, as the custodian of such records, and any school, college, university, or other educational institution, credit bureau or consumer reporting agency, including its officers, employees, or related personnel, both individually and collectively, from any and all liability for damages of whatever kind, which may at any time result to me, my heirs, family or associates because of compliance with this authorization and request to release information, or any attempt to comply with it. Should there be any question as to the validity of this release, you may contact me as indicated below:

Full Name: Herbert Eugene Ellingwood
Signature

Full Name: Herbert E. Ellingwood
Type or Print Name

Parent/Guardian (if required): _____

Date: 3/10/81

Current Address: 3523 Buckskin Court, Rocklin, CA 95677

Telephone Number: (916) 624-4916

THE WHITE HOUSE

WASHINGTON

TO: Herbert Ellingwood

This letter confirms in writing your express consent for the Federal Bureau of Investigation to make an investigation of your background as part of the consideration for your application for employment.

You should be aware that the authority to collect this background information is based on the President's executive powers in Article II of the Constitution. The information will be used to obtain necessary clearances to assist you in your work. The background information, which includes a review of FBI files, will be disclosed to another Federal agency, to assist in its process of clearing you. Willfully making a false statement, or concealing a material fact, may constitute a violation of Section 1001, Title 18, of the U.S. Code.

If you provide any information which indicates a violation of law, whether civil, criminal or regulatory in nature, it will be referred to the appropriate Federal, state, local or foreign agency.

By volunteering information about how you exercise rights guaranteed by the First Amendment, it will be assumed that you are expressly authorizing the maintenance of this information in the records of any Federal agency.

The FBI investigation will include the collection and use of relevant information in the files of various Federal agencies and it is necessary that you authorize the disclosure of such information to the FBI.

If you consent to such an investigation, and to the disclosure of relevant information by other Federal departments and agencies to the FBI, please sign your name below and return this original letter of consent to me.

Thank you.

Sincerely,

Fred F. Fielding

Approved: Herbert E. Ellingwood

Date: 3/10/81

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FM BALTIMORE (161-FM)
TO DIRECTOR PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED : APRIL 8, 1981,
(B).

RE BUREAU AIRTEL DATED, MARCH 27, 1981.

THE DEFENSE CENTRAL INDEX OF INVESTIGATIONS (DCII), A
DEPARTMENT OF DEFENSE (DOD) INDEX TO SECURITY, APPLICANT,
AND CRIMINAL INVESTIGATIVE FILES WAS CHECKED THROUGH A
REPRESENTATIVE OF THAT AGENCY ON APRIL 1, 1981, AND DISCLOSED NO
RECORD FOR APPOINTEE.

NONE OF THE PERSONS CONTACTED REQUESTED CONFIDENTIALITY
UNDER THE PROVISIONS OF THE PRIVACY ACT.

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Civil Rights &
Spec Inq Sect
Rm 2823 T1 #231

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FEDERAL BUREAU
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COMMUNICATIONS SECTION

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Mr. Holmes	
Miss Gandy	

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FM ST. LOUIS (161B-M) (RUC)

TO DIRECTOR (ROUTINE)

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY (B), BOM APR 8 1981
RE BUREAU AIRTEL TO WASHINGTON FIELD OFFICE, MARCH 27, 1981 #231

ALL INDIVIDUALS CONTACTED WERE APPRISED OF THE PROVISIONS OF
THE PRIVACY ACT AND THOSE REQUESTING CONFIDENTIALITY HAVE BEEN SO
NOTED.

A REVIEW ON APRIL 3, 1981, OF THE MILITARY RECORDS ON FILE AT
THE FEDERAL RECORDS CENTER, MILITARY BRANCH, INDICATED HERBERT EUGENE
ELLINGWOOD, SERIAL NUMBER 56-232-977, WAS INDUCTED INTO THE U. S.
ARMY ON SEPTEMBER 9, 1953, AND ENTERED ON ACTIVE DUTY THE SAME DATE
AT SAN FRANCISCO, CALIFORNIA. HE WAS HONORABLY DISCHARGED ON JANUARY
10, 1955, AS A SERGEANT, HIGHEST RANK ATTAINED, AT FORT SILL, OKLA-
HOMA, BY REASON OF HIS ACCEPTANCE OF A COMMISSION IN THE ARMY RESERVE.

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HE WAS APPOINTED A SECOND LIEUTENANT IN THE ARMY RESERVE UNDER SERIAL NUMBER 04-010-290, AND ENTERED ON ACTIVE DUTY THE SAME DATE AT WATSONVILLE, CALIFORNIA. HE WAS HONORABLY RELEASED FROM ACTIVE DUTY ON DECEMBER 16, 1956, AS A FIRST LIEUTENANT, HIGHEST RANK ATTAINED, AT FORT HAMILTON, NEW YORK, AND WAS TRANSFERRED TO THE ARMY RESERVE TO COMPLETE HIS MILITARY OBLIGATION.

HE SERVED IN THE ARMY RESERVE, INACTIVE STATUS FROM DECEMBER , 1956, TO MARCH 8, 1963, AT WHICH TIME HE WAS HONORABLY DISCHARGED.

HE HAD FOREIGN SERVICE IN FRANCE AND WAS AUTHORIZED THE NATIONAL DEFENSE SERVICE MEDAL.

HIS CHARACTER AND EFFICIENCY RATINGS RANGED FROM SATISFACTORY TO EXCELLENT AND THERE WAS NO RECORD OF COURT-MARTIAL OR ABSENCE WITHOUT OFFICIAL LEAVE.

HE WAS GRANTED A TOP SECRET CLEARANCE ON JULY 18, 1955, WHICH WAS TERMINATED AT TIME OF DISCHARGE.

HIS DATE AND PLACE OF BIRTH WERE SHOWN AS MARCH 5, 1931 AT ORDWAY, COLORADO.

BT

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FM SACRAMENTO (161B-785)(P)

TO DIRECTOR IMMEDIATE

SAN FRANCISCO IMMEDIATE

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OF INVESTIGATION
COMMUNICATIONS SECTION

Civil Rights &
Special Inq Sect
Rm 3823 TL #231

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED APRIL 8, 1981

RE BUREAU AIRTEL TO WFO, MARCH 27, 1981, SACRAMENTO TELCALL
TO SUPERVISOR CHARLES SEYROPOULOUS, SAN FRANCISCO, APRIL 7, 1981.

ON APRIL 7, 1981, MRS. ELEANOR DANIELSON, ADMINISTRATIVE
ASSISTANT, STATE BAR OF CALIFORNIA, 1210 K STREET, SACRAMENTO,
CALIFORNIA, WAS CONTACTED RE VERIFICATION OF APPOINTEE'S
EMPLOYMENT AS THE LEGISLATIVE REPRESENTATIVE FOR THE STATE
BAR OF CALIFORNIA FOR THE PERIOD NOVEMBER, 1966 TO JANUARY, 1969.
MRS. DANIELSON ADVISED THAT ALL RECORDS RE EMPLOYMENT WITH THE
STATE BAR OF CALIFORNIA WOULD BE MAINTAINED AT THE STATE
HEADQUARTERS, CALIFORNIA STATE BAR, 555 FRANKLIN STREET, SAN
FRANCISCO, CALIFORNIA, TELEPHONE (415) 561-8200. MRS. DANIELSON
FURTHER ADVISED THAT THERE IS CURRENTLY NO EMPLOYEE WITH THE

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STATE BAR OF CALIFORNIA IN SACRAMENTO WHO WAS EMPLOYED AT THE
TIME OF APPOINTEE'S EMPLOYMENT.

SAN FRANCISCO AT SAN FRANCISCO. VERIFY EMPLOYMENT AT
LEGISLATIVE REPRESENTATIVE WITH THE CALIFORNIA STATE BAR,
555 FRANKLIN STREET, SAN FRANCISCO, CALIFORNIA.

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TO DIRECTOR, FBI (ROUTINE)

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FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

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UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED APRIL 8, 1981 (B)

RE BU AIRTEL DATED MARCH 27, 1981.

EDUCATION

ON APRIL 1, 1981, ERNESTINE M. JONES, INFORMATION SECRETARY,
REGISTRAR'S OFFICE, STANFORD UNIVERSITY, STANFORD, CALIFORNIA,
ADVISED THAT THE PERMANENT RECORDS OF THE UNIVERSITY REFLECT THAT
THE APPOINTEE, HERBERT EUGENE ELLINGWOOD, BORN MARCH 5, 1931, IN
ORDWAY, COLORADO, WAS A STUDENT AT STANFORD UNIVERSITY. THE
RECORDS REFLECT THAT ELLINGWOOD WAS REGISTERED AS A GRADUATE
STUDENT FROM SEPTEMBER, 1957 THROUGH DECEMBER, 1960. APPOINTEE
MAJORED IN THE FIELD OF LAW AND HE WAS AWARDED THE L.L.B. DEGREE
ON JANUARY 8, 1960.

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MRS. JONES ADVISED THAT IT IS THE CURRENT POLICY OF
STANFORD UNIVERSITY NOT TO CALCULATE RANK IN CLASS, CLASS STANDINGS,
OR GRADE POINT AVERAGES. RECORDS ARE ONLY MAINTAINED OF STUDENT
ACHIEVEMENTS AND FAILURES ARE NOT RECORDED.

PAGE THREE SF 161B-360 UNCLAS

EMPLOYMENT:

THE FOLLOWING INVESTIGATION WAS CONDUCTED BY SA [REDACTED]

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Third Party

[REDACTED]
AT OAKLAND, CALIFORNIA.

ON APRIL 1, 1981, NINFA WOOD, SECRETARY TO THE DISTRICT ATTORNEY FOR ALAMEDA COUNTY, ALAMEDA COUNTY COURTHOUSE, ADVISED THAT A REVIEW OF HER FILES INDICATES THAT APPLICANT CAME TO WORK FOR THE DISTRICT ATTORNEY'S OFFICE ON APRIL 9, 1960, AS A LEGAL CLERK. ON JUNE 22, 1960, HE PASSED THE STATE BAR AND ON JUNE 23, 1960, WAS HIRED AS A DEPUTY DISTRICT ATTORNEY. HE WAS EMPLOYED THERE UNTIL NOVEMBER 1, 1966, WHEN HE RESIGNED TO TAKE A POSITION AS A LEGISLATIVE REPRESENTATIVE OF THE STATE BAR ASSOCIATION. THE RECORD INDICATES THAT HE IS ELIGIBLE FOR REHIRE. THE AVAILABLE RECORDS DO NOT SHOW SPECIFIC WORK ASSIGNMENTS.

MISS WOOD STATED THAT SHE RECALLED APPLICANT AS AN EXCELLENT ATTORNEY WHO WAS AN EFFECTIVE PROSECUTOR DURING HIS CAREER AND LATER SPECIALIZED IN LEGISLATIVE LAW. HE WAS A MAN OF EXCELLENT CHARACTER AND WAS WELL REGARDED AS AN EXCELLENT DISTRICT ATTORNEY AND A MAN OF HIGH MORAL CHARACTER WITH ASSOCIATES OF GOOD REPUTATION. SHE STATED THAT THERE WAS NO DOBT THAT HE

PAGE FOUR SF 161B-3605 UNCLAS

IS A LOYAL AMERICAN WHO NEVER DRINKS, SMOKES, OR USES NARCOTICS AND IS HIGHLY RECOMMENDED FOR A POSITION OF TRUST AND CONFIDENCE IN THE UNITED STATES GOVERNMENT.

APPLICANT'S FORMER SUPERVISOR, J. FRANK COAKLEY, DISTRICT ATTORNEY, ALAMEDA COUNTY, IS HOSPITALIZED AND NOT AVAILABLE FOR INTERVIEW.

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ON APRIL 1, 1981, LT. DONALD MCNEIL, INVESTIGATOR, DISTRICT ATTORNEY'S OFFICE, ALAMEDA COUNTY COURTHOUSE, ADVISED THAT HE HAS KNOWN APPLICANT PROFESSIONALLY SINCE APPLICANT CAME TO WORK AT THE DISTRICT ATTORNEY'S OFFICE IN 1960.

APPLICANT WAS KNOWN AMONG THE INVESTIGATIVE STAFF AS A TOUGH PROSECUTOR WHO COULD BE COUNTED ON TO AGGRESSIVELY PROSECUTE A CASE IN COURT. MCNEIL DESCRIBED HIM AS A REAL GENTLEMAN WHO NEVER DRANK OR USED DRUGS AND GOT ALONG WELL WITH THE DISTRICT ATTORNEY'S STAFF. HE WAS A MAN OF EXCELLENT CHARACTER AND REPUTATION AND A LOYAL AMERICAN. HIS ASSOCIATES ARE NOW MEMBERS OF THE OFFICIAL PRESIDENT REAGAN STAFF AND ALL HAVE EXCELLENT REPUTATIONS.

APPLICANT WAS HIRED AT THE DISTRICT ATTORNEY'S OFFICE BY J. FRANK COAKLEY, A DISTRICT ATTORNEY WHO WAS A GIANT IN HIS FIELD AND AN EXCELLENT JUDGE OF MEN. WHEN HE LEFT THE DISTRICT ATTORNEY'S

PAGE FIVE SF 161B-3605 UNCLAS

OFFICE, IT WAS WITH COAKLEY'S ENCOURAGEMENT SINCE COAKLEY WANTED APPLICANT TO LOBBY IN THE STATE LEGISLATURE FOR THE LAW ENFORCEMENT PROFESSION.

APPLICANT IS HIGHLY RECOMMENDED FOR A POSITION OF TRUST AND CONFIDENCE IN THE UNITED STATES GOVERNMENT.

ON APRIL 1, 1981, MR. DONALD ³WHYTE, DEPUTY DISTRICT ATTORNEY, DISTRICT ATTORNEY'S OFFICE, ALAMEDA COUNTY COURTHOUSE, ADVISED THAT HE HAS KNOWN APPLICANT PROFESSIONALLY SINCE BOTH CAME TO WORK AT THE DISTRICT ATTORNEY'S OFFICE IN 1960. WHYTE AND APPLICANT BEGAN THEIR CAREER IN THE DISTRICT ATTORNEY'S OFFICE PROCESSING CASES IN OAKLAND MUNICIPAL COURT.

APPOINTEE WAS A BRILLIANT LAWYER AND DEVELOPED INTO A LEGISLATIVE EXPERT. HE WAS HAND PICKED BY THE FORMER DISTRICT ATTORNEY J. FRANK COAKLEY TO LOBBY IN HIS LEGISLATURE FOR LAWS FAVORABLE TO THE DISTRICT ATTORNEY'S OFFICE. APPOINTEE WAS A MAN OF EXCELLENT CHARACTER AND REPUTATION. HE STATED THAT APPLICANT WOULD WORK LATE ON MANY OCCASIONS AND WAS USUALLY THE LAST TO LEAVE AT NIGHT. APPLICANT NEVER DRANK OR USED DRUGS BUT DIPLOMATIC ENOUGH NOT TO STAND OUT WHEN OTHERS HAVE COCKTAILS AT A SOCIAL OCCASION. HIS ASSOCIATES WERE YOUNG ATTORNEYS OF EXCELLENT CHARACTER.

PAGE SIX SF 161B-3605 UNCLAS

MR. WHYTE STATED THAT THERE IS NO DOUBT IN HIS MIND THAT APPLICANT IS A LOYAL AMERICAN AND IS HIGHLY RECOMMENDED FOR A POSITION OF TRUST AND CONFIDENCE WITH THE UNITED STATES GOVERNMENT.

LAW ENFORCEMENT AGENCY CHECKS:

ON APRIL 2, 1981, LIZ PRICE, RECORDS CLERK, PALO ALTO POLICE DEPARTMENT, PALO ALTO, CALIFORNIA, ADVISED THAT SHE COULD LOCATE NO POLICE RECORD IDENTIFIABLE TO THE APPOINTEE OR HIS WIFE.

ON APRIL 1, 1981, SUSAN MURPHY, RECORDS CLERK, SANTA CLARA COUNTY SHERIFF'S OFFICE, SAN JOSE, CALIFORNIA, ADVISED THAT SHE COULD LOCATE NO RECORD IDENTIFIABLE WITH THE APPOINTEE OR HIS WIFE.

ON APRIL 6, 1981, LILA HENDERSON, RECORDS CLERK, FREMONT POLICE DEPARTMENT, FREMONT, CALIFORNIA, ADVISED THAT THE RECORDS OF THE FREMONT POLICE DEPARTMENT CONTAINED NO RECORD IDENTIFIABLE WITH THE APPOINTEE OR HIS WIFE.

ON APRIL 1, 1981, RECORDS WERE REVIEWED AT THE ALAMEDA COUNTY SHERIFF'S OFFICE, CENTRALIZED IDENTIFICATION BUREAU, OAKLAND, CALIFORNIA, WITH NO IDENTIFIABLE ARREST RECORD LOCATED FOR THE APPOINTEE, HERBERT EUGENE ELLINGWOOD, OR HIS WIFE.

ON APRIL 1, 1981, DORIS MANN, RECORDS CLERK, WATSONVILLE POLICE DEPARTMENT, WATSONVILLE, CALIFORNIA, ADVISED THAT THE

PAGE EIGHT SF 161B-36 UNCLAS

WATSON VILLE POLICE DEPARTMENT HAD NO POLICE RECORD IDENTIFIABLE TO THE APPOINTEE OR MEMBERS OF HIS IMMEDIATE FAMILY.

ON APRIL 1, 1981, CARL WOOD, RECORDS CLERK, SANTA CRUZ COUNTY SHERIFF'S OFFICE, SANTA CRUZ, CALIFORNIA, ADVISED THAT HE COULD LOCATE NO ARREST RECORD IDENTIFIABLE WITH THE APPOINTEE OR HIS IMMEDIATE RELATIVES.

ON APRIL 3, 1981, MRS. SAMMIE KEATING, RECORDS CLERK, SALINAS POLICE DEPARTMENT, SALINAS, CALIFORNIA, ADVISED THAT THE DEPARTMENT HAD NO RECORD FOR THE APPOINTEE OR HIS RELATIVES.

ON APRIL 3, 1981, MRS. BOBBIE FANNING, RECORDS CLERK, MONTEREY COUNTY SHERIFF'S OFFICE, ADVISED THAT HER AGENCY'S RECORDS CONTAINED NO POLICE RECORD IDENTIFIABLE TO THE APPOINTEE OR HIS IMMEDIATE RELATIVES PRESENTLY RESIDING WITHIN THEIR JURISDICTION. FANNING DID STATE, HOWEVER, THAT THERE WAS ONE ARREST RECORD IN THE NAME OF H. C. ELLINGWOOD, BORN JULY 27, 1900, IN THE STATE OF IOWA, WHICH APPEARS TO BE IDENTICAL TO THE APPOINTEE'S DECEASED FATHER. THE RECORD INDICATES THAT ELLINGWOOD WAS ARRESTED ON OCTOBER 27, 1942, BASED UPON A WARRANT OUT OF SAN LUIS OBISPO COUNTY, CHARGING ELLINGWOOD WITH ISSUING FICTITIOUS CHECKS. THE RECORD OF DISPOSITION

PAGE NINE SF 161B-360 UNCLAS

INDICATES THAT ON THE SAME DATE, OCTOBER 27, 1942, ELLINGWOOD WAS ORDERED RELEASED BY ORDER OF THE DISTRICT ATTORNEY OF SAN LUIS OBISPO.

CREDIT RECORDS

ON APRIL 2, 1981, DELMA WHITE, RECORDS CLERK, CREDIT BUREAU INCORPORATED, SAN JOSE, CALIFORNIA, ADVISED THAT THE APPOINTEE, HERBERT E. ELLINGWOOD, BORN MARCH 5, 1931, AND HIS WIFE, AUDREY, HAVE HAD A CREDIT FILE SINCE JUNE, 1967. THE CREDIT FILE SHOWS A CURRENT ADDRESS OF 3523 BUCKSKIN COURT, ROCKLIN, CALIFORNIA. THE CREDIT RECORD REFLECTS THAT THE APPOINTEE HAS A SATISFACTORY CREDIT RATING AND PAYMENTS ARE MADE AS AGREED.

BAR ASSOCIATION

ON MARCH 31, 1981, JEANINE H. CARDINELLI, ASSISTANT SUPERVISOR, MEMBERSHIP RECORDS, STATE BAR OF CALIFORNIA, 555 FRANKLIN STREET, ADVISED THAT HERBERT EUGENE ELLINGWOOD, BORN MARCH 5, 1931, AT ORDWAY, COLORADO, WAS ADMITTED TO PRACTICE LAW IN CALIFORNIA ON JUNE 22, 1960. BAR RECORDS FURTHER INDICATED THAT THE MEMBER ATTENDED YALE UNIVERSITY IN NEW HAVEN CONNECTICUT AND STANFORD UNIVERSITY LAW SCHOOL AT STANFORD, CALIFORNIA. IN

PAGE TEN SF 161B-3605 U LAS

JANUARY, 1980, THE MEMBER'S ADDRESS WAS NOTED AS CALDWELL AND TOMS,
82 J STREET, SACRAMENTO, CALIFORNIA.

STATE BAR RECORDS

CARDINELLI HAS PREVIOUSLY ADVISED THAT THE RECORDS OF
GRIEVANCES WHICH MAY HAVE BEEN FILED AGAINST ATTORNEYS ARE NOT
AVAILABLE TO OUTSIDE AGENCIES WITHOUT WRITTEN PERMISSION FROM THE
ATTORNEY INVOLVED.

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FM NEW HAVEN (161B-2568) (RUC)

TO DIRECTOR

IMMEDIATE

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UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED APRIL
8, 1981 (B)

Civil Rights &
Special Inq Sect
Rm 3823 TL #231

RE BUREAU AIRTEL TO WFO, ETAL, MARCH 27, 1981.

EDUCATION: ON APRIL 8, 1981, MRS. ANNE MARSH, SECRETARY,
REGISTRAR'S OFFICE, YALE UNIV., NEW HAVEN, CT., ADVISED
APPOINTEE ATTENDED YALE UNIV. FROM SEPT., 1949, THROUGH
MAY, 1953, AND WAS AWARDED A BA DEGREE ON JUNE 8 1953.

APPOINTEE'S OVERALL AVERAGE WAS LISTED AS 78, MAJOR AREA

OF STUDY, DIVISIONAL. A REVIEW OF YALE UNIV.'S PROGRAMS OF

STUDY, 1952-53 DISCLOSED THE FOLLOWING INFORMATION: "THE

DIVISIONAL MAJOR IS OFFERED TO STUDENTS WHO WISH TO ELECT DEC 4 1981

BROADER PROGRAMS OF STUDY IN THEIR LAST TWO YRS. OF COLLEGE

THAN THE DEPT. MAJORS CAN ALLOW." NO OTHER PERTINENT INFO

WAS REFLECTED IN APPOINTEE'S FILE. MRS. MARSH STATED SHE WAS

NOT RECORDED

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NOT AWARE OF ANY PROFESSORS WHO WOULD STILL BE EMPLOYED BY YALE WHO MAY HAVE TAUGHT THE APPOINTEE.

CREDIT AND ARREST: ON APRIL 9, 1981, THE FOLLOWING INDIVIDUALS WERE CONTACTED AND ADVISED THEY COULD LOCATE NO RECORD IDENTIFIABLE WITH APPLICANT.

MRS. JUNE MC KANE, CREDIT BUREAU OF CONN., INC., 71 ELM ST., NEW HAVEN, CT.; OFFICER ELIZABETH WATSON, RECORDS, NEW HAVEN, CT., PD.

ADMINISTRATIVE: PERSONS CONTACTED HEREIN WERE APPRISED OF THE PROVISIONS OF THE PRIVACY ACT AND DID NOT REQUEST CONFIDENTIALITY.

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FM SAN FRANCISCO (161B-3605) (P) (SQ. 4)
COMMUNICATIONS SECTION

TO DIRECTOR, FBI (IMMEDIATE)

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UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: APRIL 8, 1981

RE SACRAMENTO TELETYPE TO BUREAU, DATED APRIL 7, 1981.

Civil Rights &
Special Inq Sect
Rm 5823 TL #231

ON APRIL 8, 1981, RECIKO NAO, PERSONNEL DEPARTMENT,
SAN FRANCISCO STATE BAR, 555 FRANKLIN STREET, SAN FRANCISCO,
CALIFORNIA, ADVISED THAT EMPLOYMENT RECORDS FOR APPOINTEE ARE
IN THEIR ARCHIVES, AND WILL BE AVAILABLE FOR REVIEW IN ABOUT
TWO WEEKS.

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COMMUNICATIONS SECTION

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FM SAN FRANCISCO (161B-3605) (P) (SQ. 4)

TO DIRECTOR, FBI (IMMEDIATE)

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HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: APRIL 8, 1981

RE SACRAMENTO TELETYPE TO BUREAU, DATED APRIL 7, 1981.

ON APRIL 8, 1981, REC IKO NAO, PERSONNEL DEPARTMENT,
SAN FRANCISCO STATE BAR, 555 FRANKLIN STREET, SAN FRANCISCO,
CALIFORNIA, ADVISED THAT EMPLOYMENT RECORDS FOR APPOINTEE ARE
IN THEIR ARCHIVES, AND WILL BE AVAILABLE FOR REVIEW IN ABOUT
TWO WEEKS.

BT

Civil Rights
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FM SACRAMENTO (161B-785) (RUC)

TO DIRECTOR PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPIN; BUDED APR 8, 1981 (B).

RE DIRECTOR AIRTEL TO WFO, MAR 27, 1981, SACRAMENTO TELETYPE
TO DIRECTOR, APR 7, 1981.

ADMINISTRATIVE. ALL INDIVIDUALS CONTACTED WERE ADVISED OF
THE PROVISIONS OF THE PRIVACY ACT. NO REQUESTS FOR CONFIDENTIALITY
WERE MADE.

EMPLOYMENT. ON APR 1, 1981, LINDA PEYRONEL, ADMINISTRATIVE
ASSISTANT, PERSONNEL, GOVERNOR'S OFFICE, STATE OF CALIFORNIA,
SACRAMENTO, CALIFORNIA, WAS CONTACTED AND ADVISED HER RECORDS
INDICATE THAT APPOINTEE WORKED IN THE CALIFORNIA GOVERNOR'S OFFICE,
SACRAMENTO, FROM FEB 1, 1969 TO JAN 5, 1975. SHE STATED RECORD
INDICATES THAT APPOINTEE HELD THE POSITION OF LEGAL AFFAIRS SECRETARY
TO THE GOVERNOR.

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FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

Civil Rights &
Special Inq Sect
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PAGE TWO SC 161B-785 UNCLAS

ON APR 2, 1981, JOANNE RICHARDSON, ADMINISTRATIVE ASSISTANT TO EXTRADITION SECTION, GOVERNOR'S OFFICE, STATE OF CALIFORNIA, SACRAMENTO, ADVISED SHE HAS KNOWN APPOINTEE FOR APPROXIMATELY 12 YEARS. SHE STATED THAT SHE WORKED DIRECTLY FOR APPOINTEE FROM 1969 TO JAN, 1975. SHE STATED HE IS AN OUTSTANDING INDIVIDUAL WHO POSSESSES EXCELLENT CHARACTER AND IMPECCABLE REPUTATION. SHE STATED THAT SHE HAS NEVER HEARD ANYTHING SAID RE APPOINTEE OF AN UNFAVORABLE OR DEROGATORY NATURE. SHE STATED HE IS A VERY INDEPENDENT PERSON, WHO IS EXTREMELY CAPABLE AND ABLE TO MAKE DECISIONS. SHE STATED THAT SHE WOULD HIGHLY RECOMMEND APPOINTEE FOR ANY POSITION OF TRUST WITH THE U.S. GOVERNMENT.

ON APR 2, 1981, ELEANOR ROSS, ADMINISTRATIVE ASSISTANT TO THE GOVERNOR, CALIFORNIA STATE CAPITOL, SACRAMENTO, ADVISED SHE HAS KNOWN APPOINTEE FOR APPROXIMATELY TEN YEARS. SHE STATED APPOINTEE IS AN EXTREMELY LOYAL, DEDICATED INDIVIDUAL WHO IS A PERSON WHO POSSESSES IMPECCABLE CHARACTER AND REPUTATION. SHE STATED THAT HE IS VERY ACTIVE IN CHURCH ACTIVITIES AND AN EXCELLENT FAMILY MAN. SHE STATED IF THERE WAS ONE CRITICISM THAT SHE WOULD HAVE RE APPOINTEE, IT WOULD BE THAT HE WAS INVOLVED IN TOO MUCH RELIGIOUS ACTIVITY IN HIS OFFICE DURING WORKING HOURS. SHE STATED

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THAT OTHER THAN THIS ONE CRITICISM APPOINTEE IS AN OUTSTANDING PERSON. SHE STATED SHE WOULD RECOMMEND HIM FOR ANY POSITION OF TRUST WITH THE U.S. GOVERNMENT. 3

ON APR 2, 1981, ROSE ANN STARK, BUSINESS SERVICES OFFICER, CALIFORNIA GOVERNOR'S OFFICE, STATE CAPITOL, SACRAMENTO, WAS CONTACTED AND ADVISED SHE HAS KNOWN APPOINTEE FOR APPROXIMATELY 11 YEARS. SHE STATED THAT SHE CONSIDERS APPOINTEE TO BE AN HONEST, DEPENDABLE INDIVIDUAL WHO IS EXTREMELY FAIR AND WHO IS ONE WHO MAKES HIS OWN DECISIONS. SHE STATED SHE KNOWS ABSOLUTELY NOTHING OF A DEROGATORY NATURE RE APPOINTEE, AND WOULD UNHESITATINGLY RECOMMEND HIM FOR ANY POSITION WITH THE U.S. GOVERNMENT.

ON APR 3, 1981, RICHARD K. TURNER, ATTORNEY, 520 CAPITOL MALL, SACRAMENTO, WAS CONTACTED AND HE ADVISED HE HAS KNOWN APPOINTEE FOR APPROXIMATELY 11 YEARS. HE STATED THAT WHILE APPOINTEE WAS THE LEGAL AFFAIRS SECRETARY TO, AT THAT TIME, GOVERNOR REAGAN, HE WAS THE ASSISTANT LEGAL AFFAIRS SECRETARY DIRECTLY UNDER APPOINTEE. HE STATED HE HAS HAD OPPORTUNITY TO KNOW APPOINTEE BOTH ON A PROFESSIONAL AND SOCIAL BASIS AND CAN NOT THINK OF A PERSON WHO IS MORE HONEST, THAT HE HAS EVER MET, THAN APPOINTEE. HE STATED THAT APPOINTEE'S REPUTATION IS BEYOND APPROACH, AND THAT HE HAS THE

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HIGHEST INTEGRITY OF ANYONE HE KNOWS. HE STATED HE CONSIDERS APPOINTEE TO BE AN OUTSTANDING INDIVIDUAL AND KNOWS ABSOLUTELY NOTHING OF AN UNFAVORABLE OR DEROGATORY NATURE RE APPOINTEE OR ANYTHING THAT WOULD IMPEACH HIS INTEGRITY. HE STATED THAT APPOINTEE IS A BRILLIANT INDIVIDUAL WHO IS EXTREMELY KNOWLEDGEABLE IN THE AREA OF LAW ENFORCEMENT AND HE STATED THAT HE WOULD WITHOUT RESERVATION GIVE HIM HIS RECOMMENDATION FOR ANY POSITION WITH THE U.S. GOVERNMENT.

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ON APR 3, 1981, BERNICE SMITH, 2717 - 11TH AVENUE, SACRAMENTO, WAS CONTACTED AND ADVISED SHE HAS KNOWN APPOINTEE FOR APPROXIMATELY EIGHT YEARS. SHE STATED THAT WHILE APPOINTEE WAS THE LEGAL AFFAIRS SECRETARY TO THE GOVERNOR OF CALIFORNIA, SHE WAS THE OFFICE MANAGER IN THE GOVERNOR'S OFFICE. SHE STATED THAT APPOINTEE'S CHARACTER IS ABOVE REPROACH, THAT HE HAS A VERY FINE REPUTATION BOTH INDIVIDUALLY AND POLITICALLY. SHE STATED THAT HE IS AN EXTREMELY LOYAL AMERICAN, WHO IS VERY ACTIVE IN HIS CHURCH AND WHO HAS A VERY FINE FAMILY. SHE STATED THAT APPOINTEE IS A VERY CONSCIENTIOUS INDIVIDUAL WHO IS GOOD AT HIS PROFESSION AND A VERY DEDICATED PERSON. SHE STATED THAT SHE CAN THINK OF ABSOLUTELY NOTHING OF AN UNFAVORABLE NATURE RE APPOINTEE. SHE STATED SHE WOULD HIGHLY

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RECOMMEND APPOINTEE FOR ANY POSITION WITH THE U.S. GOVERNMENT.

ON APR 3, 1981, MONICA DURAN, PERSONNEL OFFICER, ATTORNEY GENERAL'S OFFICE, STATE OF CALIFORNIA, SACRAMENTO, WAS CONTACTED AND ADVISED HER RECORDS INDICATE APPOINTEE WAS EMPLOYED AS THE SPECIAL ASSISTANT TO THE ATTORNEY GENERAL, STATE OF CALIFORNIA FOR THE PERIOD JAN 1, 1975 TO JUNE 29, 1979. SHE STATED THE FILE CONTAINED NO UNFAVORABLE INFO AND APPOINTEE WAS ELIGIBLE FOR CONSIDERATION FOR REHIRE.

ON APR 3, 1981, STEVEN MERKSAMER (ALSO LISTED AS REFERENCE), DEPUTY ATTORNEY GENERAL, STATE OF CALIFORNIA, 555 CAPITOL MALL, SACRAMENTO, WAS CONTACTED AND ADVISED HE HAS KNOWN APPOINTEE FOR APPROXIMATELY 11 YEARS. HE STATED THAT APPOINTEE IS VERY ACTIVE IN CHURCH AND CIVIC ORGANIZATIONS. HE STATED THAT APPOINTEE POSSESSES OUTSTANDING CHARACTER AND REPUTATION AND IS AN EXCELLENT ADMINISTRATOR. HE STATED THAT APPOINTEE IS ALSO AN OUTSTANDING LAWYER AND VERY KNOWLEDGEABLE RE THE AREA OF CRIMINAL JUSTICE. HE STATED APPOINTEE IS VERY CAPABLE IN DEALING WITH INDIVIDUALS AND HIGHLY RESPECTED AND THOUGHT OF IN THE LEGAL COMMUNITY. HE STATED THAT THE ONLY CRITICISM THAT HE HAS EVER HEARD MADE OF APPOINTEE IS HIS INVOLVEMENT IN CHRISTIAN ACTIVITY. HE STATED THAT APPOINTEE

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IS AN EXTREMELY COMPETENT, CAPABLE INDIVIDUAL, AND HE WOULD, WITHOUT HESITATION, RECOMMEND HIM FOR ANY POSITION OF TRUST WITH THE U.S. GOVERNMENT.

ON APR 3, 1981, PETER DE MOURO (ALSO LISTED AS CLOSE PERSONAL ASSOCIATE), DEPUTY ATTORNEY GENERAL, STATE OF CALIFORNIA, SACRAMENTO, WAS CONTACTED AND ADVISED THAT HE HAS KNOWN APPOINTEE FOR APPROXIMATELY EIGHT YEARS. HE STATED THAT DURING THIS TIME THAT HE HAS ASSOCIATED WITH APPOINTEE ON A PROFESSIONAL AND SOCIAL BASIS AND CONSIDERS APPOINTEE ONE OF THE SHARPEST LAWYERS HE KNOWS. HE STATED APPOINTEE IS EXTREMELY INTELLIGENT AND A VERY ETHICAL INDIVIDUAL. HE STATED THAT APPOINTEE'S CHARACTER AND REPUTATION ARE IMPECCABLE AND ABOVE REPROACH. HE STATED THAT APPOINTEE MAINTAINS AN OUTSTANDING LEGAL REPUTATION IN THE COMMUNITY AND IS USED BY HIMSELF AS A MODEL. HE STATED THAT HE WORKED WITH APPOINTEE ON THE ATTORNEY GENERAL'S EXECUTIVE STAFF AND ADVISED THAT APPOINTEE IS A VERY PERSEPTIVE INDIVIDUAL WHO IS EXTREMELY LOYAL AND DEDICATED. HE STATED HE KNOWS ABSOLUTELY NOTHING OF AN UNFAVORABLE NATURE RE APPOINTEE AND WOULD GIVE APPOINTEE HIS HIGHEST RECOMMENDATION FOR A POSITION WITH THE U.S. GOVERNMENT.

ON APR 3, 1981, FLO SNYDER (ALSO LISTED AS CLOSE PERSONAL

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ASSOCIATE), HEAD OF PUBLIC INQUIRY UNIT, ATTORNEY GENERAL'S OFFICE, STATE OF CALIFORNIA, 555 CAPITOL MALL, SACRAMENTO, WAS CONTACTED AND ADVISED SHE HAS KNOWN APPOINTEE FOR APPROXIMATELY SEVEN YEARS. SHE STATED THAT SHE SERVED WITH APPOINTEE ON THE EXECUTIVE STAFF OF THE FORMER CALIFORNIA ATTORNEY GENERAL. SHE STATED THAT DURING THIS SEVEN YEARS, SHE HAS HAD OPPORTUNITY TO WORK WITH AND KNOW APPOINTEE ON A PROFESSIONAL AND SOCIAL BASIS. SHE STATED SHE CONSIDERS APPOINTEE TO BE A SUPERIOR HUMAN BEING, AND A FINE CHRISTIAN MAN. SHE STATED APPOINTEE DOES NOT DRINK, AND DOES NOT COMPROMISE HIS BELIEFS IN HIS EMPLOYMENT. SHE STATED THAT HE IS AN OUTSTANDING LAWYER WHO POSSESSES A STRONG PERSONALITY AND IS ABLE TO MAINTAIN HIS PRINCIPLES IN ALL SITUATIONS. SHE STATED THAT HIS REPUTATION IS BEYOND REPROACH AND SHE CAN NOT THINK OF ONE THING SHE WOULD QUESTION RE APPOINTEE. SHE STATED THAT SHE HAD THE OPPORTUNITY TO ACCOMPANY APPOINTEE AND OTHER INDIVIDUALS ON A TRIP TO CHINA WHERE SHE HAD THE OPPORTUNITY TO OBSERVE HIM IN ALL TYPES OF SITUATIONS. SHE STATED THAT IN EVERY INSTANCE, APPOINTEE HANDLED HIMSELF IN A PROFESSIONAL, OUTSTANDING MANNER. SHE STATED THAT APPOINTEE IS ALSO AN OUTSTANDING ATTORNEY UPON WHOM THE FORMER ATTORNEY GENERAL HEAVILY RELIED. SHE STATED THAT APPOINTEE ALSO

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IS AN EXCELLENT FAMILY MAN AND HAS A WIFE AND TWO CHILDREN. SHE STATED THAT SHE WOULD WITHOUT ANY LIMITATION, GIVE APPOINTEE HER HIGHEST RECOMMENDATION FOR ANY POSITION WITH THE U.S. GOVERNMENT.

ON APR 2, 1981, KAY ELDRIDGE (ALSO LISTED AS CLOSE PERSONAL ASSOCIATE), SECRETARY, CALDWELL & TOMS, 812 "J" STREET, SACRAMENTO, WAS CONTACTED AND ADVISED SHE HAS KNOWN APPOINTEE FOR 13 YEARS. SHE STATED DURING THIS PERIOD SHE HAS BEEN HIS SECRETARY AND CLOSE PERSONAL FRIEND. SHE STATED THAT APPOINTEE BEGAN EMPLOYMENT WITH CALDWELL & TOMS ON JULY 1, 1979, AND TERMINATED HIS ASSOCIATION WITH THIS FIRM ON MAR 31, 1981. SHE STATED THAT APPOINTEE WAS A FULL PARTNER AND THE SOLE ATTORNEY FOR THE SACRAMENTO BRANCH WHICH CONSISTED ONLY OF APPOINTEE, WITH OCCASIONAL USE OF AN ASSOCIATE. SHE STATED THAT PERSONALLY SHE CONSIDERS APPOINTEE TO BE AN INDIVIDUAL OF OUTSTANDING CHARACTER AND ONE OF THE STRONGEST SPIRITUAL PERSONS SHE HAS EVER MET. SHE STATED HE IS AN EXTREMELY DYNAMIC, INTELLIGENT INDIVIDUAL, WHOSE REPUTATION AND LOYALTY ARE ABOVE QUESTION. SHE STATED HE IS AN EXTREMELY WELL ROUNDED ATTORNEY WHOSE SPECIALITY HAS BEEN IN THE AREA OF CRIMINAL JUSTICE. SHE STATED THAT APPOINTEE IS ALSO AN OUTSTANDING FAMILY MAN AND ONE WHO

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IS EXTREMELY ACTIVE IN HIS CHURCH AND ALSO IN CIVIC ACTIVITY. SHE STATED THAT SHE WOULD UNHESITATINGLY RECOMMEND APPOINTEE FOR ANY POSITION WITH THE U.S. GOVERNMENT.

ON APR 6, 1981, PHIL RIVERA, ATTORNEY, 8146 GREENBACK LANE, SUITE 110, FAIR OAKS, CALIFORNIA, WAS CONTACTED AND ADVISED HE HAS KNOWN APPOINTEE FOR APPROXIMATELY THREE YEARS. HE STATED THAT FOR APPROXIMATE

Y ONE YEAR, HE WAS AN ASSOCIATE COUNSEL WITH APPOINTEE WITH THE FIRM OF CALDWELL & TOMS, SACRAMENTO. HE STATED THAT APPOINTEE HAS IMPECCABLE CHARACTER AND REPUTATION, IS A VERY GREGARIOUS INDIVIDUAL, WHO IS VERY FRIENDLY AND OUTGOING. HE STATED THAT HE IS AN OUTSTANDING CHRISTIAN MAN AND A LEADER IN THE COMMUNITY. HE STATED THAT APPOINTEE IS ALSO A VERY HONEST INDIVIDUAL. RIVERA STATED THAT APPOINTEE IS AN INDIVIDUAL WHO GOES OUT OF HIS WAY TO HELP OTHER PEOPLE. HE DESCRIBED APPOINTEE AS "NOT ONLY IS HE A CHRISTIAN, HE ACTS LIKE A CHRISTIAN." RIVERA STATED HE KNOWS ABSOLUTELY NOTHING OF AN UNFAVORABLE OR DEROGATORY NATURE RE APPOINTEE AND WITHOUT RESERVATION, WOULD RECOMMEND HIM FOR ANY POSITION WITH THE U.S. GOVERNMENT. HE FURTHER STATED THAT HE CANNOT THINK OF A BETTER MAN FOR THE JOB.

RESIDENCE. VICINITY OF 7595 AUBURN-FOLSOM ROAD, LOOMIS,

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CALIFORNIA. ON APR 6, 1981# BETTY CHANDLER, 7775 AUBURN-FOLSOM ROAD, LOOMIS, ADVISED THAT SHE HAS KNOWN APPOINTEE AND HIS FAMILY FOR APPROXIMATELY FOUR YEARS. SHE STATED THAT APPOINTEE AND FAMILY ARE EXCELLENT NEIGHBORS WHO HAVE AN EXCELLENT REPUTATION IN THE COMMUNITY. SHE STATED THAT THEY ARE ALWAYS FRIENDLY AND WILLING TO HELP IN ANY SITUATION. SHE STATED THAT THEY HAVE NEVER BEEN ANY PROBLEM IN THE COMMUNITY AND THAT SHE WOULD HIGHLY RECOMMEND APPOINTEE FOR A POSITION OF TRUST WITH THE GOVERNMENT.

ON APR 6, 1981, NELLIE DICKINSON, 7555 AUBURN-FOLSOM ROAD, LOOMIS, ADVISED SHE HAS KNOWN APPOINTEE AND HIS FAMILY FOR APPROXIMATELY FIVE YEARS. SHE STATED THEY ARE OUTSTANDING NEIGHBORS WHO NEVER CREATE ANY PROBLEMS IN THE NEIGHBORHOOD AND ARE WELL LIKED BY EVERYONE. SHE STATED THEY ARE A VERY NICE FAMILY, WHO ALWAYS ARE AVAILABLE TO HELP SHOULD THE NEED ARISE. SHE STATED THAT SHE WOULD RECOMMEND APPOINTEE FOR ANY POSITION OF TRUST WITH THE U.S. GOVERNMENT.

ON APR 6, 1981, TONY MUSOLINO, 7575 AUBURN-FOLSOM ROAD, LOOMIS, ADVISED HE HAS KNOWN APPOINTEE FOR APPROXIMATELY FIVE YEARS. HE STATED THAT APPOINTEE AND HIS FAMILY ARE THE HIGHEST CALIBER OF INDIVIDUALS THAT HE KNOWS. HE STATED THEY POSSESS HIGH MORALS,

PAGE ELEVEN SC 161B-785 UNCLAS

ARE EXTREMELY HONEST, AND EXCELLENT NEIGHBORS. HE STATED HE WOULD WITHOUT RESERVATION, RECOMMEND APPOINTEE FOR ANY POSITION OF TRUST WITH THE U.S. GOVERNMENT.

VICINITY OF 3523 BUCKSKIN COURT, ROCKLIN, CALIFORNIA. ON APR 6, 1981, GARY DUERNER, 3527 BUCKSKIN ROAD, ROCKLIN, ADVISED HE HAS KNOWN APPOINTEE AND HIS FAMILY FOR 15 YEARS. HE STATED THAT THEY ARE HONEST, FINE FAMILY AND EXCELLENT NEIGHBORS. HE STATED THEY ARE EXTREMELY HELPFUL AND AVAILABLE ON ANY OCCASION. HE STATED HE CONSIDERS THEM TO BE AN OUTSTANDING FAMILY AND A MODEL FOR HIS OWN FAMILY. HE STATED HE KNOWS NOTHING OF AN UNFAVORABLE NATURE RE APPOINTEE OR HIS FAMILY AND WOULD HIGHLY RECOMMEND APPOINTEE FOR A POSITION OF TRUST WITH THE U.S. GOVERNMENT.

ON APR 6, 1981, ROSEMARY SHOWS, 3531 BUCKSKIN ROAD, ROCKLIN, ADVISED SHE HAS KNOWN APPOINTEE AND HIS FAMILY FOR APPROXIMATELY 18 MONTHS. SHE STATED THEY ARE FINE NEIGHBORS WHO CREATE NO PROBLEMS IN THE NEIGHBORHOOD AND ARE WELL LIKED AND THOUGHT OF BY EVERYONE. SHE STATED THEY ARE A QUIET FRIENDLY FAMILY, AND AN ASSET TO THE NEIGHBORHOOD. SHE STATED SHE WOULD RECOMMEND APPOINTEE FOR A POSITION WITH THE U.S. GOVERNMENT.

ON APR 6, 1981, VICKI WAGNER, 3535 BUCKSKIN ROAD, ROCKLIN,

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ADVISED SHE HAS KNOWN APPOINTEE AND FAMILY FOR APPROXIMATELY ONE YEAR. SHE STATED THAT THE FAMILY ARE VERY GOOD NEIGHBORS, WHO ARE QUIET, BUT VERY FRIENDLY. SHE STATED THE ONLY

UNFAVORABLE INFO SHE

WOULD HAVE WOULD BE THAT THEIR OLDEST SON OCCASIONALLY DEMONSTRATES DRIVING HABITS IN THE NEIGHBORHOOD THAT SHE DOES NOT APPROVE OF IN THAT HE DRIVES RECKLESSLY IN THE VICINITY OF HIS AND HER HOME. SHE STATED SHE HAS BROUGHT THIS TO THE ATTENTION OF APPOINTEE AND HIS FAMILY AND IMPROVEMENT HAS BEEN MADE. SHE STATED BASED ON THE LIMITED KNOWLEDGE SHE HAS OF APPOINTEE AND HIS FAMILY, SHE WOULD RECOMMEND HIM FOR A POSITION OF TRUST WITH THE U.S. GOVERNMENT.

REFERENCES. ON APR 6, 1981, REVEREND ORVILLE EASTERLY, 202 BONITA AVENUE, ROSEVILLE, CALIFORNIA, WAS CONTACTED AND ADVISED HE HAS KNOWN APPOINTEE FOR SIX YEARS. HE STATED THAT APPOINTEE HAS AN IMPECCABLE REPUTATION, EXTREMELY HIGH MORALS, AND HIS CHARACTER IS ABOVE REPROACH. HE STATED THAT APPOINTEE IS SPOKEN WELL OF BY EVERYONE AND HE HAS NEVER HEARD A NEGATIVE WORD SAID RE APPOINTEE. HE SAID HE IS VERY ACTIVE IN THE CHURCH IN AREAS OF SPEAKING AND TEACHING. HE STATED PRESENTLY APPOINTEE IS AN ELDER IN THE FIRST ASSEMBLY OF GOD CHURCH, ROSEVILLE, WHERE HE IS INVOLVED IN THE CHRISTIAN EDUCATION DEPARTMENT ON OCCASION. HE STATED APPOINTEE IS

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ALSO VERY ACTIVE IN OTHER RELIGIOUS ACTIVITIES THROUGHOUT THE CITY, STATE, AND NATION. HE STATED THAT APPOINTEE IS ALSO THE NATIONAL PRESIDENT OF THE CHRISTIAN LEGAL SOCIETY. HE STATED THAT IN THE PERIOD OF TIME HE HAS KNOWN APPOINTEE, HE HAS BEEN AN EXAMPLE TO EVERYONE IN THE LIFE THAT HE LEADS, AND HE KNOWS OF NOTHING THAT WOULD INDICATE THAT APPOINTEE WAS NOT OF THE HIGHEST CALIBER. HE STATED THAT WITHOUT HESITATION, HE WOULD RECOMMEND APPOINTEE FOR ANY POSITION WITH THE U.S. GOVERNMENT.

ON APR 3, 1981, WALTER HANSON, 4633 WHITNEY AVENUE, SACRAMENTO, WAS CONTACTED AND ADVISED THAT HE HAS KNOWN APPOINTEE FOR 20 YEARS. HE DESCRIBED APPOINTEE AS A VERY LOYAL CITIZEN WHO POSSESSES THE HIGHEST INTEGRITY AND HONESTY. HE STATED APPOINTEE IS A DEEPLY RELIGIOUS INDIVIDUAL WHO IS VERY SINCERE AND ALWAYS TRYING TO IMPROVE HIMSELF. HE STATED HE IS EXTREMELY RELIABLE AND A VERY INTELLIGENT PERSON, WHO IS VERY ACTIVE IN THE COMMUNITY AND RELIGIOUS AREAS. HE STATED APPOINTEE IS AN INDIVIDUAL WHO DOES NOT MAKE PROMISES HE DOES NOT INTEND KEEPING. HE STATED THAT APPOINTEE HAS AN EXCELLENT FAMILY AND A VERY HAPPY HOMELIFE. HE STATED HE WOULD HIGHLY RECOMMEND APPOINTEE FOR A HIGH POSITION OF TRUST WITH THE U.S. GOVERNMENT.

ASSOCIATES. ON APR 3, 1981, BRUCE FITE, DEVELOPER, 9852 BUSINESS PARK DRIVE, SACRAMENTO, ADVISED HE HAS KNOWN APPOINTEE FOR 13 YEARS. HE STATED HE DOES NOT KNOW ONE NEGATIVE THING RE APPOINTEE, AND CONSIDERS HIM ONE OF THE FINEST INDIVIDUALS HE KNOWS IN GOVERNMENT. HE STATED APPOINTEE DEMONSTRATES, AT ALL TIMES, OUTSTANDING CHARACTER AND REPUTATION, AND IF HE HAS ONE SHORTCOMING, IT IS "HE SPENDS A LOT OF HIS TIME BEARING THE PROBLEMS OF OTHER PEOPLE." HE STATED APPOINTEE IS COMPLETELY HONEST AND DEPENDABLE AND IS A DYNAMIC PERSON WHO IS EXTREMELY WELL ORGANIZED. HE DESCRIBED APPOINTEE AS HAVING IMPECCABLE CHARACTER AND HE FURTHER STATED THAT HE WOULD HIGHLY RECOMMEND APPOINTEE FOR ANY POSITION WITH THE U.S. GOVERNMENT.

ON APR 7, 1981, WILL GRIMM, EXECUTIVE DIRECTOR AND LOBBYIST, CALIFORNIA ASSOCIATION OF HUMAN SERVICES TECHNOLOGISTS, 11TH AND "L" BUILDING, SACRAMENTO, ADVISED HE HAS KNOWN APPOINTEE FOR APPROXIMATELY 13 YEARS. HE DESCRIBED APPOINTEE AS AN INDIVIDUAL WITH EXTREMELY HIGH INTEGRITY AND IMPECCABLE CHARACTER. HE STATED HE IS VERY INTELLIGENT AND EXTREMELY CAPABLE, AND HONEST. HE STATED APPOINTEE IS AN INTELLIGENT INDIVIDUAL WHO IS AN OUTSTANDING LAWYER AND WELL RESPECTED IN THE POLITICAL COMMUNITY. HE STATED

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THAT APPOINTEE IS A GOOD SYSTEMS MAN WHO IS DISCREET AT ALL TIMES, AND COMPLETELY DEPENDABLE. HE STATED HE KNOWS OF NOTHING OF AN UNFAVORABLE OR DEROGATORY NATURE RE APPOINTEE, AND ADVISED THAT APPOINTEE IS A PERSON WHO DOES NOT COMPROMISE HIS BELIEFS IN ANY WAY. HE FURTHER ADVISED THAT HE WOULD WITHOUT HESITATION OR LIMITATION, GIVE APPOINTEE HIS HIGHEST RECOMMENDATION FOR A POSITION OF TRUST WITH THE U.S. GOVERNMENT.

THE FOLLOWING 12 INDIVIDUALS FURNISHED SIMILAR POSITIVE INFO RE APPOINTEE:

ON APR 3, 1981, ROBERT BURK, FORMER CALIFORNIA ASSEMBLYMAN, 11TH AND "L", SACRAMENTO, KNOWN TEN YEARS.

ON APR 2, 1981, LEONARD FLORY, 655 UNIVERSITY AVENUE, SUITE 200, SACRAMENTO, KNOWN SIX YEARS.

ON APR 2, 1981, SENATOR H. L. RICHARDSON, CALIFORNIA STATE SENATE, STATE CAPITOL, SACRAMENTO, KNOWN 16 YEARS.

ON APR 3, 1981, DOCTOR HARRY CARLSON, 2720 CAPITOL AVENUE, SACRAMENTO, KNOWN FIVE YEARS.

ON APR 3, 1981, MAJOR GENERAL L. PALUMBO, CALIFORNIA NATIONAL GUARD, 2829 WATT AVENUE, SACRAMENTO, KNOWN 11 YEARS.

ON APR 3, 1981, GREG ALTERTON, CALIFORNIA ASSOCIATION OF HUMAN

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SERVICES TECHNOLOGISTS, 1127 - 11TH STREET, SACRAMENTO, KNOWN SEVEN YEARS.

ON APR 7, 1981 REX HIME, SPECIAL ASSISTANT TO THE LIEUTENANT GOVERNOR, STATE OF CALIFORNIA, STATE CAPITOL, SACRAMENTO, KNOWN 11 YEARS.

ON APR 7, 1981, PATRICIA GAYMAN, LOBBYIST FOR SAN DIEGO, 11TH AND "L" STREET, SACRAMENTO, KNOWN 11 YEARS.

ON APR 7, 1981, CHARLES COLLINGS, PRESIDENT, RALEYS SUPERMARKET, 1515 - 20TH STREET, SACRAMENTO, CALIFORNIA, KNOWN 15 YEARS.

ON APR 7, 1981, DOCTOR GARY NEWHOUSE, 6137 WATT AVENUE, NORTH HIGHLANDS, CALIFORNIA, KNOWN FIVE YEARS.

ON APR 7, 1981, FRED FRIEDMEYER, DEVELOPER, 186 SHADOWBROOK, SACRAMENTO, KNOWN 20 YEARS.

ON APR 7, 1981, SENATOR JOHN DOOLITTLE, CALIFORNIA STATE SENATOR, STATE CAPITOL, SACRAMENTO, KNOWN FIVE YEARS.

CREDIT AND ARREST. ON APR 3, 1981, THE FOLLOWING INDIVIDUALS WERE CONTACTED AND ADVISED THEIR RECORDS CONTAINED NO INFO RE APPOINTEE, APPOINTEE'S WIFE, OR APPOINTEE'S CHILDREN:

ALICE LAURIA, SACRAMENTO POLICE DEPARTMENT, SACRAMENTO;
LANA TRUEWORTHY, SACRAMENTO COUNTY SHERIFF'S OFFICE, SACRAMENTO;

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CAROL SISTO, ROSEVILLE POLICE DEPARTMENT, ROSEVILLE; PAT JACINTO, PLACER COUNTY SHERIFF'S OFFICE, AUBURN, CALIFORNIA (COVERS ROSEVILLE, ROCKLIN, AND LOOMIS AREAS).

ON APR 3, 1981, PEGGY HENDERSON, SACRAMENTO RETAIL CREDIT ASSOCIATION, SACRAMENTO, ADVISED APPOINTEE HAS BEEN KNOWN TO THEIR FILES SINCE JUNE, 1967 AND POSSESSES EXCELLENT CREDIT RATING.

BT

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-19-2007 BY AUC 60324/BAW/STP/cld

Date 4/10/81

L

TO: DIRECTOR, FBI

FROM: SAC, ALEXANDRIA (161B-7785) (RUC)

HERBERT EUGENE ELLINGWOOD
SPECIAL INQUIRY (B)
BUDED: 4/8/81

Re Bureau airtel to WFO, 3/27/81.

SC Patricia A. Locke caused a search to be made
of the files of the Central Intelligence Agency (CIA), and

All individuals contacted were apprised of the
provisions of the Privacy Act and those requesting
confidentiality have been so noted.

b3

1-Bureau
1-Alexandria
MEH:meh
(2)

161-15292-10
NOT RECORDED
2 APR 13 1981

Approved: *[Signature]*

Transmitted

(Number)

(Time)

Per *[Signature]*

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ Airtel

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 4/21/81

L

TO: DIRECTOR, FBI

FROM: SAC, WFO (161-14852) (RUC)

HERBERT EUGENE ELLINGWOOD
 SPECIAL INQUIRY
 BUDED: 4/8/81

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

Re BuAT dated 3/27/81.

ADMINISTRATIVE

"Where appropriate, Privacy Act (e) (3)
 data was furnished to persons interviewed.
 Express promises of confidentiality, both
 limited and unlimited, have been noted
 where granted."

1 Bureau
 1 WFO
 MH: mh
 (2)

101-15397

RECORDED
 APR 22 1981

Spec. Inq.

Approved:

Transmitted _____

(Number)

(Time)

Per _____

WFO 161-14852

RPC:jd

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White House

The following investigation was conducted by
SA [] on April 8, 1981:

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b7C

Third Party

A review of the appointee's Official Personnel File at the Personnel Office, Office of Administration, Executive Office of the President revealed the following information concerning Herbert E. Ellingwood:

3/23/81

Excepted appointment to the position of Deputy Counsel to the President, White House. The file contains no additional pertinent information.

Richard Hauser, Deputy Counsel to the President advised that he has known the appointee on a professional basis for only about one month. Hauser stated that the appointee comes to this position highly recommended. He has neither seen nor heard anything which would lead him to question his reputation and he would recommend him for a position of confidence and trust.

Peter J. Rusthoven, Assistant Counsel, White House advised that he has known the appointee on a professional basis for about one month. His comments concerning Ellingwood are favorable but are based only on this brief acquaintance. He knows nothing negative concerning him and would recommend him for a position of confidence and trust.

WFO 161-14852

BAM:kao

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RESIDENCE

Fellowship House.
2817 Woodland Drive, N.W.
Washington, D. C.

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b7C

Third Party

On April 9, 1981, SA [REDACTED] conducted the following investigation concerning the appointee, Herbert Eugene Ellingwood:

Albert M. Gillett, Resident Host, Fellowship House, advised that the appointee began staying at the above captioned location on April 1, 1981. He will be a guest here until he finds a permanent residence.

Gillett stated that he does not know the appointee well enough to comment as to character or make any recommendation for a position of trust and confidence.

WFO 161-14852

FL:kf

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Third Party

Developed Associate

The following investigation was conducted by SA [redacted] concerning the appointee, Herbert Ellingwood.

On April 9, 1981, it was determined at the Department of Justice (DOJ) that D. Lowell Jensen would most likely not be available for interview on April 10, 1981, due to his schedule.

On April 13, 1981, D. Lowell Jensen, the Assistant Attorney General (Criminal Division) advised he became a co-worker with the appointee in 1960 when the appointee became a Deputy District Attorney (DDA) in Alameda County, California. They were co-workers (DDA's) from then until 1966 or 1967 when the appointee left to take a position with the State Bar of California. Since then, they have maintained both professional and social contact. Jensen stated he is pleased and proud to be the appointee's friend. He added the appointee is a super person of absolutely the highest level of moral character and his technical abilities and skills as a lawyer are superior. Nothing of an adverse nature was known concerning the appointee to include his character, reputation, integrity, or patriotism. Jensen highly recommended the appointee for a position of trust and confidence in the United States Government.

WFO #161-14852

CREDIT AND POLICE AGENCIES

SC [redacted] caused a search to be made of the files of the Credit Bureau, Incorporated, Washington, D. C., and was advised on 4-7-81 that the files contained (a satisfactory credit record) ~~(no credit rating)~~ ~~(no record)~~ for the appointee.

On 4-1-81, SC [redacted] determined that no arrest record was contained in the Metropolitan Police Department files concerning the appointee ~~(or relatives)~~.

It is to be noted that at all times an indefinite number of unidentified records are out of file and not available for review.

On 4-1-81, SC [redacted] determined that no record was contained in the Department of Transportation, Bureau of Motor Vehicle Services, Government of the District of Columbia files concerning the appointee ~~(or relatives)~~.

On 4-1-81, SC [redacted] searched the files of the U. S. Park Police and no identifiable adult criminal or traffic record could be located regarding the appointee.

MISCELLANEOUS

SC [redacted] caused a search to be made of the files of the Office of Personnel Management, and was advised on 4-15-81 that no ~~(additional pertinent information)~~ ~~(record)~~ was found concerning the appointee.

SC [redacted] caused a search to be made of the files of the U.S. Secret Service, Department of the Treasury, and was advised on 4-13-81 that ~~(no record)~~ ~~(no derogatory information)~~ ~~(no additional pertinent information)~~ was found concerning the appointee.

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RR HQ

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R 220 020 Z APR 81

FM SAN FRANCISCO (161B-3605) (RUC) (SQ. 4)

TO DIRECTOR (ROUTINE)

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED APRIL 8, 1981

RE SACRAMENTO TELETYPE TO BUREAU, DATED APRIL 7, 1981, AND
SAN FRANCISCO TELETYPE TO BUREAU, DATED MARCH 9, 1981.

ON APRIL 21, 1981, REC IKO NAO, PERSONAL TECHNICIAN, SAN
FRANCISCO STATE BAR, 555 FRANKLIN STREET, SAN FRANCISCO,
CALIFORNIA, ADVISED APPOINTEE WAS EMPLOYED WITH STATE BAR FROM
NOVEMBER 1, 1966 TO JANUARY, 1969. NO OTHER INFORMATION WAS
AVAILABLE IN THEIR FILES.

BT

RECEIVED
TELETYPE UNIT

23 APR 81 00 43z

FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

Exec. AD-Adm.	
Exec. AD-Inv.	
Exec. AD-LES	
Asst. Dir.	
Adm. Servs.	
Crim. Inv.	
Ident.	
Intell.	
Lab.	
Legal Coun.	
Plan. & Insp.	
Rec. Mgmt.	
Tech. Servs.	
Training	
Off. of Cong. & Public Affs.	
Telephone Rm.	
Director's Sec'y	

Civil Rights &
Spec. Inv. Sect
Rm 3825 T1 #231

161-15392-12

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Third Party

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-19-2007 BY AUC 60324/BAU/STP/cld

NO CLASSIFICATION PER OGA LETTER
DATED 06-11-2007

✓ April 30, 1981

BY COURIER

5-1-81
agw

Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D. C.

FEDERAL GOVERNMENT

Dear Mr. Fielding:

In accordance with a request received from you on March 25, 1981, an investigation has been conducted concerning Mr. Herbert Eugene Ellingwood. Transmitted herewith are two copies of a summary memorandum containing the results of this investigation.

When additional inquiries and checks of the files of the Division of Personnel Investigations, Office of Personnel Management; United States Secret Service; and The White House Office have been completed, you will be advised.

Sincerely yours,

V-96

DE-15

Charles P. Monroe
Assistant Director
Criminal Investigative Division

Enclosures (2)

BCL:st (VI)
(5)

RECORDED
9 DEC 4 1981

NOTE: Mr. Ellingwood has worked for a law firm in Sacramento, California, from July, 1979, to April, 1981, and is being considered for an unknown staff appointment at unknown location. Investigation complete except ~~last~~ bar affiliations and Washington, D. C., Federal Agencies.

Exec AD Inv. _____
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Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

MAIL ROOM

April 30, 1981

HERBERT EUGENE ELLINGWOOD

Summary

THE INVESTIGATION OF MR. ELLINGWOOD COVERED INQUIRIES AS TO HIS CHARACTER, LOYALTY, AND GENERAL STANDING, BUT NO INQUIRIES WERE MADE AS TO THE SOURCES OF HIS INCOME.

Birth

Mr. Ellingwood was born on March 5, 1931, in Ordway, Colorado.

Education

3523 Buckskin Court Rocklin, CA

Mr. Ellingwood attended Yale University, New Haven, Connecticut, from September, 1949, to May, 1953, receiving a B.A. degree.

He attended Stanford University, Stanford, California, from September, 1957, to December, 1960, receiving a LL.B. degree.

Military Service

Mr. Ellingwood was inducted into the United States Army on September 9, 1953, and entered on active duty the same date. He was honorably discharged as a sergeant on January 10, 1955, and was commissioned a second lieutenant in the United States Army Reserve the same date. He was honorably released on December 16, 1956, and was transferred to the United States Army Reserve. He served in an inactive status until he was honorably discharged on March 8, 1963. His service record is clear.

Employment

June, 1960, to
October, 1966

Alameda County District Attorney's
Office, Oakland, California, as a
Deputy District Attorney

November, 1966, to
January, 1969

State Bar of California, Sacramento,
California, as a Legislative
Representative

[Signature]
BCL:SR (VI)
(2)

RETURN TO

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MAIL ROOM ☐

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Third Party

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to DOJ
on 6-25-86 TAB:agw

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Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

Herbert Eugene Ellingwood

February, 1969, to
January, 1975

Governor's Office, State of California,
Sacramento, California, as Legal
Affairs Secretary to the Governor

January, 1975, to
June, 1979

Attorney General's Office, State
of California, Sacramento, California,
as Special Assistant to the Attorney
General

July, 1979, to
April, 1981

Law firm of Caldwell and Toms,
Sacramento, California, as a
partner

Family Status

Mr. Ellingwood is married to the former Audrey Alice Kesler,
and they reside at 3523 Buckskin Court, Rocklin, California.

Mr. Ellingwood's father and sister, Harry Clifford Ellingwood,
and Juanita Ellingwood, are deceased. In addition to his wife,
Mr. Ellingwood has listed the following living close relatives:

Mother

Edith Arleene Ellingwood
Watsonville, California

Son

Edwin Bruce Ellingwood
Rocklin, California

Son

Thomas Barry Ellingwood
Rocklin, California

Sister

Pauline Nelson
Salinas, California

Sister

Mildred Chapman
Watsonville, California

Brother

Al Ellingwood
Aroma, California

Brother

Wayne Ellingwood
Transvaal, South Africa

Based on the background information provided by Mr. Ellingwood,
Mr. Ellingwood, he has no close relatives residing in communist-
controlled countries.

Herbert Eugene Ellingwood

Interviews

Thirty-five persons, consisting of current and former supervisors and co-workers, present and former neighbors, references, professional associates, and social acquaintances, were interviewed. They advised Mr. Ellingwood is a loyal American whose character, reputation, and associates are above reproach. He was described as sincere, intelligent, capable, conscientious, dedicated, and hardworking. They recommended him for a position of trust and responsibility.

Credit and Arrest Checks

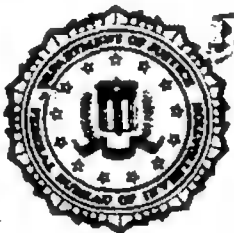
Information has been received from appropriate credit reporting agencies indicating their files contain either no record or no additional pertinent information concerning Mr. Ellingwood.

Information has been received from appropriate law enforcement agencies indicating their files contain no record concerning Mr. Ellingwood or his close relatives.

Agency Checks

Information has been received from the Central Intelligence Agency, and the Defense Central Index of Investigations indicating

The central files of the FBI, including the files of the Identification Division, were checked by name only, and contain no additional pertinent information concerning Mr. Ellingwood.



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

April 30, 1981

HERBERT EUGENE ELLINGWOOD

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October, 1966

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Office, Oakland, California, as a
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November, 1966, to
January, 1969

State Bar of California, Sacramento,
California, as a Legislative
Representative

"Corrected copy or report as
furnished to outside agency.
Do not permanently remove
from file."

Herbert Eugene Ellingwood

February, 1969, to
January, 1975

Governor's Office, State of California,
Sacramento, California, as Legal
Affairs Secretary to the Governor

January, 1975, to
June, 1979

Attorney General's Office, State
of California, Sacramento, California,
as Special Assistant to the Attorney
General

July, 1979, to
April, 1981

Law firm of Caldwell and Toms,
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partner

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Rocklin, California

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Thomas Barry Ellingwood
Rocklin, California

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Pauline Nelson
Salinas, California

Sister

Mildred Chapman
Watsonville, California

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Al Ellingwood
Aroma, California

Brother

Wayne Ellingwood
Transvaal, South Africa

Based on the background information provided by
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b3

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAU/STP/cld

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May 8, 1981

BY COURIER

5-8-81
agw

Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D. C.

FEDERAL GOVERNMENT

Dear Mr. Fielding:

Reference is made to my letter dated April 30, 1981,
which furnished you the results of an investigation concerning
Mr. Herbert Eugene Ellingwood.

Enclosed are two copies of a summary memorandum
containing the results of additional inquiries in this matter.

This completes our investigation.

Sincerely yours,

CPM

Charles P. Monroe
Assistant Director
Criminal Investigative Division

Enclosures (2)

101-15392-14

NOT RECORDED
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ENCLOSURE

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- Director's Sec'y _____

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Third Party

May 8, 1981

HERBERT EUGENE ELLINGWOOD

The information in this summary memorandum supplements the information contained in a summary memorandum dated April 30, 1981.

Employment

From April, 1981, to the present, Mr. Ellingwood has been employed by the Office of the Counsel to the President, The White House, Washington, D. C., as a Deputy Counsel.

Interviews

Three additional persons commented favorably concerning Mr. Ellingwood's character, reputation, associates, and loyalty and recommended him for a position of trust.

Bar Affiliation

Mr. Ellingwood is eligible to practice law in the State of California. No grievances have been filed against him.

Agency Checks

Information has been received from the Division of Personnel Investigations, Office of Personnel Management; United States Secret Service; and The White House Office indicating their files contain no additional pertinent information concerning Mr. Ellingwood.

*Copy furnished
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on 6-25-86 LAB:agw

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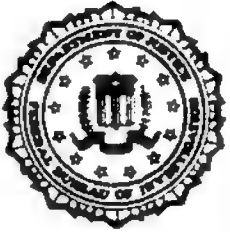
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Director's Sec'y _____



U.S. Department of Justice

Federal Bureau of Investigation

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

Washington, D.C. 20535

May 8, 1981

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*Corrected copy or report as
furnished to outside agency.
Do not permanently remove
from file."

5-81

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10-09-2007 BY AUC 60324/BAW/STP/cld

FEDERAL GOVERNMENT

TE
J
May 6, 1982

CONGRESSIONAL RECORD — SENATE

S 4739

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify

before any duly constituted committee of the Senate.

MERIT SYSTEMS PROTECTION BOARD
Herbert E. Ellingwood, of California, to be
Chairman of the Merit Systems Protection Board.

Confirmed 5-6-82

(Handwritten signature/initials inside a circle)

161-15392-15

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6-2-82
file

cording to the order entered this evening, we have provided for the recognition of certain Senators on special orders.

After the execution of the special orders, there will be a brief period for the transaction of routine morning business to be provided for at that time—assuming that that can be done and still comply with another order entered today which provides for resumption of the consideration of the Department of Defense authorization bill at 10:30 a.m., at which time the Tower second-degree amendment to the Specter amendment as modified will be the pending question.

Mr. President, I anticipate that the Senate will be in late tomorrow evening, to do as much work as possible on the Department of Defense authorization bill. I fully anticipate and expect a session of the Senate on Friday.

I have no further business to transact. If the minority leader has nothing further he wishes to address, I am prepared to ask the Senate to recess.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:15 a.m. tomorrow.

The motion was agreed to; and at 6:30 p.m. the Senate recessed until tomorrow, Thursday, May 6, 1982, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate May 5, 1982:

THE JUDICIARY

A. J. McNamara, of Louisiana, to be U.S. district judge for the eastern district of Louisiana vice Edward J. Boyle, Sr., retired.

John W. Potter, of Ohio, to be U.S. district judge for the northern district of Ohio, vice William K. Thomas, retired.

John A. Terry, of the District of Columbia, to be an associate judge of the District of Columbia Court of Appeals for the term of 15 years, vice Stanley S. Harris.

IN THE MARINE CORPS

The following-named officers of the Marine Corps Reserve for transfer into the regular Marine Corps under the provisions of title 10, United States Code, section 5572:

Major

Amos, J. F.	Larson, M. J.
Capiito, J. W.	McDermott, T. H.
Dupree, F. W.	Murphy, D. M.
Graham, J. L.	

Captain

Anzur, J. T.	Duva, M.
Banigan, B. H., II	Engvall, W. O.
Becker, C. R.	Erick, R. D.
Belanger, L. L.	Evans, Jr., J. N.
Bell, C. R., Jr.	Gallagher, J. T.
Blanche, J. F.	Gallo, W. V.
Brown, S. F.	Gambill, T. L.
Bull, J. E.	Gomez, D. A.
Bush, R. V., Jr.	Granger, R. W.
Chapman, M. W., Jr.	Groves, W. L.
Ciaravino, W. J.	Grundy, D. E.
Cook, W. H.	Hamilton, W. A.
Courtnage, D. G.	Hansen, B. C.
Durda, J. N.	Harmon, H. M.

Haskell, T. L.	Palm, E. F.
Hayhurst, T. E.	Parkhurst, P. S.
Heath, M. L.	Paul, S. H.
Herman, P. C.	Paulger, J. B.
Hessler, W. G.	Poggi, W. L.
Hill, J. T.	Ramsey, D. L.
Hills, Jr., W. W.	Rawson, G. L.
Jepsen, N. W.	Rhoads, G. D.
Johnson, C. L.	Rickert, R. R.
Jones, E. A.	Robinson, J. R.
Kimlick, M. F.	Samad, R. L.
Lazisky, R. R.	Schroeder, D. A.
Legear, A. B.	Seaberg, J. P.
Macak, W. C.	Short, J. S., Jr.
Manley, R. S.	Shutters, R. W.
Mann, D. W.	Sirmons, R. B.
Mariney, C.	Sprute, T. A.
Maxey, A. B.	Stark, K. A.
Mazzara, A. F.	Stephens, D. A.
McMullen, B. G.	Stockwell, A. D.
Miller, R. L.	Svetahor, N. P.
Miller, T. J.	Tuggle, F. L.
Mills, Jr., S. E.	Turner, J. T.
Murgo, J. B.	Vansaghi, R. L.
Murray, W. A.	Verzera, D. M.
Myers, H. H.	Walker, W. C., III
Norquist, S. W.	Whitman, R. S.
Nourie, R. J.	Wiggins, W. C.
Ohlman, Jr., G. G.	Wills, R. L.
Ortega, J. G.	

Lieutenant

Adams, J. R.	Edwards, L. P.
Albo, M. C.	Farrell, D. A.
Alonzo, J. I.	Fazio, A. P.
Arinello, D. M.	Fedyna, J. M.
Arnold, D. G.	Feeley, S. P.
Ayala, J. G.	Fernald, S. W.
Bachand, N. K.	Ferri, R. A.
Barker, M. J.	Fielder, Jr., E.
Bartch, R. O., Jr.	Figueroa, J. A.
Bean, R. D.	Flake, N. W.
Becker, K. L.	Fleming, A. P.
Belcher, R. W.	Forand, S. L.
Bell, R. H.	Fowler, G. A.
Bennett, W. S.	Fox, IV, R. B.
Benning, R. F., Jr.	Freeman, J. S.
Berg, S. R.	French, K. M.
Bibeau, G. J.	Galie, M. L.
Biederman, J. E.	Garrett, L. E.
Blakney, W. S.	Gasiliunas, R. P.
Blanc, M. J.	Greenfield, D. L.
Bode, K. D.	Green, H. S.
Bodnar, R. R.	Habel, J. X.
Bond, K. D.	Hansen, K. E.
Bro, T. L.	Hardy, W. E.
Brown, J. L.	Haslam, A. M.
Brown, II, J. R.	Hawkins, M. B.
Broxterman, C.	Hawkins, S. D.
Bruder, IV, J. A.	Heiland, D. E.
Brygider, P. A.	Hensel, R. B.
Bumgarner, W. N.	Herman, D. C.
Burns, K. P.	Hernandez, M.
Bush, M. M.	Hill, S. L.
Caldwell, G. W.	Hinerman, III, O. H.
Call, V. M.	Holdeman, M. W.
Callahan, Jr., W. H.	Holmes, W. J.
Campbell, S. J.	Honeycutt, G.
Cassel, Jr., J. D.	Howard, T. B.
Charette, J. M.	Hudson, Jr., F. S.
Chestnut, Jr., M. B.	Hunt, R. F.
Clifford, K. M.	Iandoli, J. P.
Cody, E. A.	Imhof, Jr., H. E.
Coney, R. J.	Jackson, M. J.
Conti, E. K.	Jackson, R. W.
Conway, S. F.	Jagodka, D. J.
Coogan, C. J.	Johnson, C. B.
Copeland, A. D.	Johnson, D. P.
Cote, S. R.	Jones, C. A.
Cramer, M. T.	Jones, W. C.
Cribbs, C. M.	Joslin, R. E.
Csaszi, J.	Junge, L. J.
Dale, T. L.	Kelley, J. L.
Daniels, Jr., E. T.	Kesselring, B. G.
Deneke, T. P.	Kilbride, C. J.
Dobbs, M. C.	Klatt, III, E. H.
Douglas, G. S.	Koolstra, A. R.
Dupre, P. J.	Kurtzhals, M. W.
Dwiggins, W. O.	Kvigne, K. W.

Lambertsen, G. A.	Sankey, J. M.
Layton, R. E.	Savage, R. J.
Leahy, K. M.	Scallon, H. J.
Ledford, L. A.	Schmitt, M. H.
Leiford, D. L.	Schmidt, S. A.
Leonard, T. E.	Schwartz, III, R. E.
Longero, R. D.	Seiwell, K. A.
Lovejoy, Jr., J. D.	Sessions, M. G.
Lyles, H. C.	Sharp, D. G.
MacKinnon, P. C.	Sherwood, G. A.
Madruza, M. D.	Shoemaker, B.
Malcolm, D. S.	Shutt, D. H.
Martin, J. P.	Siller, M. G.
McCarthy, K. J.	Simmian, D. S.
McGarry, T. J.	Simmons, G. W.
McGill, Jr., T. J.	Simmons, R. W.
McGrath, T. J.	Slagel, Jr., E. K.
McHugh, D. R.	Smith, G. W.
McMannis, M. D.	Smith, H. N.
McMillan, B. L.	Smith, J. L.
Menah, M. J.	Smith, M. J.
Meyeraan, D. R.	Smith, N. J.
Miller, R. J.	Smithberg, F. M.
Miller, W. K.	Sneed, J. W.
Mitchell, S. M.	Spears, R. A.
Monti, M.	Speer, J. L.
Moore, C. N.	Spurrier, D. T.
Morgan, D. D.	Staples, E. L.
Mudd, D. H.	Stephens, M. W.
Mumley, Jr., S. A.	Stinger, P. K.
Murphy, M. R.	Stoler, G. M.
Nelson, Jr., R. R.	Stooksbury, W. T.
Nelson, S. L.	Sullivan, H. K.
Nester, D. M.	Swenson, W. C.
Numrich, Jr., P. W.	Talleri, P. J.
O'Bermueller, G. P.	Tarbutton, W. R.
O'Brien, Jr., E. P.	Texidor, Jr., J. L.
O'Dom, D. P.	Thompson, D. G.
O'Keefe, D. J.	Thorson, T. L.
O'Reilly, T. P.	Travers, D. L.
Pane, M. L.	Turano, J. J.
Pann, S. J.	Turner, R. L.
Papagolos, G. E.	Valero, L. A.
Parker, W. H.	Vancamp, E. J.
Pena, J. L.	Veyna, S. E.
Pence, Jr., S. J.	Voorhees, R. S.
Pfaender, W. C.	Walrath, R. J.
Phillips, T. A.	Watson, D. M.
Pittelkow, D. T.	Webb, J. R.
Placey, M. W.	Wells, T. C.
Power, W. C.	Wendall, III, A. J.
Price, D. W.	White, R. D.
Putnam, R. W.	Wiedel, K. B.
Quinlan, W. J.	Wilder, M.
Rand, A. J.	Williams, C.
Ray, J. S.	Wilson, T. P.
Reeves, J. D.	Wisecarver, III, W. H.
Reineberg, M. F.	Womack, G. L.
Ringlee, N. R.	Wood, S. A.
Robinson, R. C.	Wright, K. J.
Rodriguez, D.	Wright, S. L.
Rohletter, J. B.	Yaron, Jr., G. D.
Rollins, K. S.	

CONFIRMATIONS

Executive nominations confirmed by the Senate May 5, 1982:

EXECUTIVE OFFICE OF THE PRESIDENT

Peter Otto Murphy, of the District of Columbia, for the rank of Ambassador during his tenure of service as U.S. Negotiator on Textile Matters.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

MERIT SYSTEMS PROTECTION BOARD

Herbert E. Ellingwood, of California, to be a Member of the Merit Systems Protection Board for the remainder of the term expiring March 1, 1986.

DEPARTMENT OF JUSTICE

Salvatore R. Martoche, of New York, to be U.S. attorney for the western district of New York for the term of 4 years.

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 1 OF 8

DATE JUNE 29, 1985

CLASSIFICATION UNCLAS

PRECEDENCE PRIORITY

#F093PP AX LA PG RH SC SF WFTDE HQ H0093 1811315TYU

P 291*2131Z JUN 85

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/clb

FM

FM DIRECTOR FBI {161-15392}

TO

TO FBI WASHINGTON FIELD {161-14852} PRIORITY

FBI ALEXANDRIA {161B-7785} PRIORITY

14

FBI LOS ANGELES PRIORITY

FBI PITTSBURGH PRIORITY

12

FBI RICHMOND PRIORITY

FBI SACRAMENTO {161B-785} PRIORITY

10

FBI SAN FRANCISCO {161B-3605} PRIORITY

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8

UNCLAS

SECTION 1 OF 2

6

ENCLOSURE FOR WFO FORWARDED BSM:

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: 7/10/85

4

WITHOUT FAIL: {B}

2

THE BUREAU HAS BEEN REQUESTED TO CONDUCT AN EXPEDITE
UPDATE INVESTIGATION OF ELLINGWOOD FOR PRESIDENTIAL APPOINTMENT
AS ASSISTANT ATTORNEY GENERAL FOR THE OFFICE OF LEGAL POLICY.

APPROVED BY

DRAFTED BY

DATE

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6/29/85

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2-ENCLOSURE

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JUL 27 APR 1 1986

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE

2

CONTINUATION SHEET

PAGE TWO DE HQ 0093 UNCLAS

DEPARTMENT OF JUSTICE, WASHINGTON, D. C., WHICH REQUIRES SENATE
CONFIRMATION. HANDLE THIS INVESTIGATION AS A SPIN BUT FOLLOW
DAPLI REPORTING RULES AND SUBMIT A REPORT TO FBIHQ BY BUDED FOR
FORWARDING TO THE WHITE HOUSE.

ALL OFFICES: 161 INVESTIGATION CONDUCTED APRIL, 1981;
UPDATE FROM THAT POINT.

INTERVIEW PRESIDENTS OF LOCAL BARS, ATTORNEYS WHO HAVE
OPPOSED APPLICANT; ATTORNEYS, MINORITY AND ETHNIC
REPRESENTATIVES, AND APPROPRIATE LAW ENFORCEMENT OFFICIALS, AS
WELL AS FEDERAL, STATE AND LOCAL JUDGES. IF APPLICANT HAD
HISTORY OF FINANCIAL TROUBLE, ASSURE THAT APPROPRIATE RECORDS
ARE CHECKED FOR LOCAL AND STATE TAX LIENS OUTSTANDING AGAINST
HIM. ALSO, IF APPOINTEE OWNS REAL PROPERTY, DETERMINE WHETHER
PROPERTY ENCUMBERED WITH ANY COVENANTS PERTAINING TO RACE,
CREED, COLOR, OR RELIGION THROUGH A REVIEW OF THE COUNTY
RECORDER OF DEEDS RECORDS.

WHERE APPROPRIATE, VERIFY ADMISSION TO STATE AND LOCAL
BARS, AND CHECK GRIEVANCE COMMITTEE RECORDS. ALSO CHECK
NEWSPAPER MORGUES FOR ANY PERTINENT INFORMATION.

APPOINTEE WILL BE REQUIRED TO MAKE DECISIONS CONCERNING

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

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CONTINUATION SHEET

PAGE THREE DE HQ 0093 UNCLAS
START HERE

POLICY AND PERSONNEL MATTERS; THEREFORE, DURING INTERVIEWS,
DETERMINE IF APPOINTEE HAS EXPRESSED OR MANIFESTED ANY BIAS OR
PREJUDICE AGAINST ANY CLASS OF CITIZEN, OR ANY RELIGIOUS,
RACIAL OR ETHNIC GROUP;

BUREAU DEADLINE AS SET FORTH ABOVE MEANS THE REPORT MUST
BE RECEIVED AT THE BUREAU ON THAT DATE OR PRIOR THERETO;

BORN MARCH 5, 1931, IN ORDWAY, COLORADO, AND HAS SSAN 726-
09-4567;

RESIDENCES: AUGUST, 1979, TO JULY, 1981, 3523 BUCKSKIN
COURT, ROCKLIN, CALIFORNIA; JULY, 1981, TO THE PRESENT, 6607
BRIAR HILL COURT, MC LEAN, VIRGINIA; LEGAL RESIDENCE: 5629
MAPLE RIDGE COURT, ROCKLIN, CALIFORNIA;

EMPLOYMENT: MARCH, 1981, TO DECEMBER, 1981, THE WHITE
HOUSE, DEPUTY COUNSEL TO THE PRESIDENT, FRED FIELDING
{SUPERVISOR}, OLD EXECUTIVE OFFICE BUILDING, WASHINGTON, D. C.;
DECEMBER, 1981, TO THE PRESENT, MERIT SYSTEMS PROTECTION BOARD,
1120 VERMONT AVENUE, N. W., WASHINGTON, D. C., CHAIRMAN;

RELATIVES: FATHER {DECEASED}, HARRY CLIFFORD ELLINGWOOD,
BORN JULY 29, 1900, IN ALBIA, IOWA; MOTHER, EDITH ARLEENE
ELLINGWOOD, BORN MARCH 12, 1900, IN AMES, KANSAS, RESIDES 1763

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
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GREEN VALLEY ROAD, WATSONVILLE, CALIFORNIA; SPOUSE, AUDREY

ALICE KESLER, BORN AUGUST 19, 1932, IN CASS, WEST VIRGINIA,

RESIDES 6607 BRIAR HILL COURT, MC LEAN, VIRGINIA; SON, EDWIN

BRUCE ELLINGWOOD, BORN NOVEMBER 17, 1963, IN CASTRO VALLEY,

CALIFORNIA, RESIDES 6242 GREEN TAVERN LANE, YORBA LINDA,

CALIFORNIA; SON, THOMAS BARRY ELLINGWOOD, BORN MARCH 18, 1967,

IN CASTRO VALLEY, CALIFORNIA, RESIDES WITH APPOINTEE AND

SPOUSE; SISTER {DECEASED}, JUANITA ELLINGWOOD, BORN JULY 19,

1924, IN LA JUNTA, COLORADO; SISTER, PAULINE NELSON, BORN

SEPTEMBER 13, 1926, IN LA JUNTA, COLORADO, RESIDES 792 ECHO

VALLEY ROAD, SALINAS, CALIFORNIA; SISTER, MILDRED CHAPMAN, BORN

SEPTEMBER 29, 1928, IN ORDWAY, COLORADO, RESIDES 1355

INDEPENDENCE SQUARE, WATSONVILLE, CALIFORNIA; BROTHER, AL

ELLINGWOOD, BORN SEPTEMBER 15, 1934, IN AROMAS, CALIFORNIA,

RESIDES 1000 HIGHWAY 101, AROMAS, CALIFORNIA; BROTHER, WAYNE

ELLINGWOOD, BORN MAY 19, 1938, IN AROMAS, CALIFORNIA, RESIDES

2862 COTTONWOOD, ORANGE, CALIFORNIA.

REFERENCES AND ASSOCIATES: JOYCE KEITH, MERIT SYSTEMS

PROTECTION BOARD {MSPB}, 1120 VERMONT AVENUE, N. W., NO.

826, WASHINGTON, D. C., {202}653-7114; VERNE SPEIRS, MSPB,

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FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

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CONTINUATION SHEET

PAGE FIVE DE HQ 0093 UNCA*LAS

{202}653-7115; RICHARD REDENIUS, MSPB, {202}653-6842; MAJOR
GENERAL THOMAS K. TURNAGE, 1023 31ST STREET, N.W., WASHINGTON,
D.C., {202}724-0447; COLONEL FRANK SALCEDO, 1010 WISCONSIN
AVENUE, N.W., NO. 330, WASHINGTON, D.C., {202}333-1080; DR.
VERNON L. GROSE, 1101 S. ARLINGTON RIDGE ROAD, NO. 1117,
ARLINGTON, VIRGINIA, {703}685-0636.

CLEARANCES: FBI, 1981, EQUIVALENT TO TOP SECRET (ON A
NEED TO KNOW BASIS).

WASHINGTON FIELD CHECK OFFICE OF SPECIAL COUNSEL AND
OFFICE OF REVIEW AND APPEALS AT MERIT SYSTEMS PROTECTION BOARD,
CHECK OFFICE OF PUBLIC INTEGRITY AND OFFICE OF PROFESSIONAL
RESPONSIBILITY AT DEPARTMENT OF JUSTICE, AND DETERMINE SECURITY
CLEARANCE. ALSO, AT U.S. GENERAL ACCOUNTING OFFICE, REVIEW
FILES "INQUIRY INTO ALLEGATIONS AGAINST THE CHAIRMAN, MERIT
SYSTEMS PROTECTION BOARD {GAO/AFMD-84-65}", AND DETERMINE
OUTCOME OF INQUIRY. FURTHER, INTERVIEW CONGRESSWOMAN PATRICIA
SCHROEDER, CHAIRWOMAN, SUBCOMMITTEE ON CIVIL SERVICE, HOUSE OF
REPRESENTATIVES, WASHINGTON, D.C., CONCERNING THIS INQUIRY.
DETERMINE IF SHE CONCURS WITH THE GAO CONCLUSIONS AND IF THERE
ARE CURRENTLY ANY ALLEGATIONS AGAINST MR. ELLINGWOOD.

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FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

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CONTINUATION SHEET

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WASHINGTON FIELD ALSO CONTACT REPRESENTATIVES FROM THE
FOLLOWING AGENCIES OR ORGANIZATIONS TO OBTAIN COMMENTS
CONCERNING APPOINTEE'S CHARACTER, ETHICS, AND SUITABILITY:
EMPLOYMENT STANDARDS ADMINISTRATION, FAIR LABOR STANDARDS
DIVISION, AND WAGE APPEALS BOARD, U. S. DEPARTMENT OF LABOR,
200 CONSTITUTION AVENUE, N. W., WASHINGTON, D. C.; FEDERAL
LABOR RELATIONS AUTHORITY, 500 C STREET, S. W., WASHINGTON, D.
C.; FEDERAL GOVERNMENT SERVICE TASK FORCE, HOUSE OFFICE
BUILDING ANNEX, WASHINGTON, D. C.; 226-2494; AMERICAN
FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, 1325 MASSACHUSETTS
AVENUE, N. W., WASHINGTON, D. C.; 737-8700; NATIONAL
ASSOCIATION OF GOVERNMENT EMPLOYEES, 2139 WISCONSIN AVENUE, N.
W., WASHINGTON, D. C.; 965-4411; NATIONAL FEDERATION OF FEDERAL
EMPLOYEES, 1016 16TH STREET, N. W., WASHINGTON, D. C.; 862-
4400; PEOPLE FOR THE AMERICAN WAY, 1015 18TH STREET, N. W.,
WASHINGTON, D. C.; 822-9450, ANTHONY T. PODESTA, EXECUTIVE
DIRECTOR.

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 FEDERAL BUREAU OF INVESTIGATION
 COMMUNICATION MESSAGE FORM

PAGE 7 OF 8	CLASSIFICATION UNCLAS	PRECEDENCE PRIORITY
DATE JUNE 29, 1985		

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FM DIRECTOR FBI {161-15392}

TO FBI WASHINGTON FIELD {161-14852} PRIORITY

FBI ALEXANDRIA {161B-7785} PRIORITY

FBI LOS ANGELES PRIORITY

FBI PITTSBURGH PRIORITY

FBI RICHMOND PRIORITY

FBI SACRAMENTO {161B-785} PRIORITY

FBI SAN FRANCISCO {161B-3605} PRIORITY

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SECTION 2 OF 2

ENCLOSURE FOR WFO FORWARDED BSM:

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: 7/10/85

WITHOUT FAIL: {B}

 SACRAMENTO VERIFY APPOINTEE'S POSITION AT STRAWBERRIES AND
 STUFF, ROCKLIN, CALIFORNIA, AND DETERMINE NATURE OF BUSINESS:

ALSO VERIFY LEGAL RESIDENCE IN ROCKLIN, CALIFORNIA, AND CONDUCT

APPROVED BY	DRAFTED BY <i>RE: TAT</i>	DATE 6/29/85	ROOM 5161	TELE EXT. 4228
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RETURN TO

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Third Party

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

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APPROPRIATE CREDIT AND ARREST CHECKS:

WASHINGTON FIELD, AS PRINCIPLE OFFICE, INSURE AT LEAST 25
PERSONS KNOWLEDGEABLE CONCERNING APPOINTEE ARE INTERVIEWED:

INVESTIGATION SHOULD RECEIVED PRIORITY ATTENTION AND
RECEIVING OFFICES SHOULD TELEPHONICALLY ADVISE FBIHQ OF ANY
DEROGATORY INFORMATION DEVELOPED:

SF 86 AND RECORDS RELEASE FOLLOW BY AIRTEL:

DUE TO URGENT NATURE OF REQUEST IT IS IMPERATIVE BUDED BE
MET WITHOUT FAIL:

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THE WHITE HOUSE
WASHINGTON

June 27, 1985

(Date)

TO: FBI, LIAISON
FROM: FRED F. FIELDING
SUBJECT: FBI Investigations

Subject's Name ELLINGWOOD, HERBERT EUGENE (SS#: 726-09-4567)

Date of Birth 3/5/31 Place of Birth Ordway, CO

Present Address 6607 Briar Hill Court, McLean, VA

We request: Copy of Previous Report
 Name Check Expanded Name Check
 X Full Field Investigation NO IRS TO FBI
 Limited Update

The person named above is being considered for:

 White House Staff Position
 X Presidential Appointment*(PAS)
 *Senate Confirmation

Attachments:

 X SF 86 1 2
 X SF 87, Fingerprint Card
 X SF 86, Supplement

Remarks/Special Instructions:

Assistant Attorney General for the Office of Legal Policy
Department of Justice

NOTE: WE DO HAVA A COPY OF THE 1981 REPORT

EXPEDITE

Teletype & Airtel sent:

WFO RH
AK
LA SC
PL SF

161-15392-16
6/29/85

Update
4/1981

Standard Form 86

AUGUST 1964
U.S. CIVIL SERVICE COMMISSION
(F.P.M. CHAPTER 736)
86-107SECURITY INVESTIGATION DATA
FOR SENSITIVE POSITION

CASE SERIAL NO. (CSC use only)

INSTRUCTIONS.—Prepare in triplicate, using a typewriter. Fill in all items. If the answer is "No" or "None," so state. If more space is needed for any item, continue under item 28.

1. FULL NAME <i>(Initials and abridgements of full name are not acceptable. If no middle name, show "(NMN)"; if initials only, show "(no given or middle name)".</i>		(LAST NAME) ELLINGWOOD	(FIRST NAME) HERBERT	(MIDDLE NAME) EUGENE	2. DATE OF BIRTH March 5, 1931	
OTHER NAMES USED. <i>(Maiden name, names by former marriages, former names changed legally or otherwise, aliases, nicknames, etc. Specify which, and show dates used.)</i> NO CHANGES EXCEPT AS OTHERWISE NOTED ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld					3. PLACE OF BIRTH Ordway, Colorado	
					4. <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	
		5. HEIGHT 5'10"	WEIGHT 180	COLOR EYES Blue	COLOR HAIR Blond	
6. <input type="checkbox"/> SINGLE <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> WIDOW(ER) <input type="checkbox"/> DIVORCED		7. IF MARRIED, WIDOWED, OR DIVORCED, GIVE FULL NAME AND DATE AND PLACE OF BIRTH OF SPOUSE OR FORMER SPOUSE. INCLUDE WIFE'S MAIDEN NAME. GIVE DATE AND PLACE OF MARRIAGE OR DIVORCE. <i>(Give same information regarding all previous marriages and divorces.)</i>				
8. DATES AND PLACES OF RESIDENCE. <i>(If actual places of residence differ from the mailing addresses, furnish and identify both. Begin with present and go back to January 1, 1937. Continue under item 28 on other side if necessary.)</i>						
FROM July 1981		TO present		NUMBER AND STREET 6607 Briar Hill Court	CITY McLean	STATE AX/RH VA
FOR IL						
9. <input type="checkbox"/> U.S. CITIZEN		<input type="checkbox"/> BY BIRTH <input type="checkbox"/> NATURALIZED		ALIEN REGISTRATION NO.	DATE, PLACE, AND COURT	
		CERT. NO.		PETITION NO.		
<input type="checkbox"/> ALIEN		<input type="checkbox"/> DERIVED-PARENTS CERT. NO(S).				
		REGISTRATION NO.	NATIVE COUNTRY		DATE AND PORT OF ENTRY	
10. EDUCATION. <i>(All schools above elementary.)</i>						
NAME OF SCHOOL		ADDRESS	FROM (Year)	TO (Year)	DEGREES	
11. THIS SPACE FOR FBI USE. <i>(See also item 29.)</i>			12. SOCIAL SECURITY NUMBER			
			13. MILITARY SERVICE <i>(Past or present)</i>			
			SERIAL NO. <i>(If none, give grade or rating at separation)</i>	BRANCH OF SERVICE <i>(Army, Navy, Air Force, etc.)</i>	FROM (Yr.)	TO (Yr.)
			161-15392-10			

14. HAVE YOU EVER BEEN DISCHARGED FROM THE ARMED FORCES UNDER OTHER THAN HONORABLE CONDITIONS? ☐ YES ☐ NO.
(If answer is "Yes," give details in item 28.)

15. EMPLOYMENT. (List ALL employment dates starting with your present employment. Give both month and year for all dates. Show ALL dates and addresses when unemployed. Give name under which employed if different from name now used.)

FROM	TO	NAME OF EMPLOYER (Firm or agency) AND SUPERVISOR (Full name, if known)	ADDRESS (Where employed)	TYPE OF WORK	REASON FOR LEAVING
3/81	12/81	President Ronald Reagan: In my position as Deputy Counsel to the President, I was supervised by Fred Fielding, Counsel to the President.	Old Executive Office Bldg., The White House	WFO Attorney	Appointment to current position
12/81 - present		Merit Systems Protection Board	1120 Vermont, N.W. Washington, D.C. WFO	CHAIRMAN	Chairman

16. HAVE YOU EVER BEEN DISCHARGED (FIRED) FROM EMPLOYMENT FOR ANY REASON? ☐ YES ☐ NO.

17. HAVE YOU EVER RESIGNED (QUIT) AFTER BEING INFORMED THAT YOUR EMPLOYER INTENDED TO DISCHARGE (FIRE) YOU FOR ANY REASON? ☐ YES ☐ NO.
(If your answer to 16 or 17 above is "Yes" give details in item 28. Show the name and address of employer, approximate date, and reasons in each case. This information should agree with the statements made in item 15—EMPLOYMENT.)

18. HAVE YOU EVER BEEN ARRESTED, TAKEN INTO CUSTODY, HELD FOR INVESTIGATION OR QUESTIONING, OR CHARGED BY ANY LAW ENFORCEMENT AUTHORITY? (You may omit: (1) Traffic violations for which you paid a fine of \$30 or less; and (2) anything that happened before your 16th birthday. All other incidents must be included, even though they were dismissed or you merely forfeited collateral.) ☐ YES ☐ NO.

IF YOUR ANSWER IS "YES," GIVE FULL DETAILS BELOW:

DATE	CHARGE	PLACE	LAW ENFORCEMENT AUTHORITY	ACTION TAKEN
------	--------	-------	------------------------------	--------------

19. HAVE YOU EVER HAD A NERVOUS BREAKDOWN OR HAVE YOU EVER HAD MEDICAL TREATMENT FOR A MENTAL CONDITION? ☐ YES ☐ NO.
(If your answer is "Yes," give details in item 28.)

20. FOREIGN COUNTRIES VISITED (SINCE 1930). (Exclusive of military service.)

COUNTRY

DATE LEFT U.S.A.

DATE RETURNED U.S.A.

PURPOSE

(see attached sheet) -- Supplemental Sheet #1

21. ARE YOU NOW, OR HAVE YOU EVER BEEN, A MEMBER OF THE COMMUNIST PARTY, U.S.A., OR ANY COMMUNIST OR FASCIST ORGANIZATION? ☐ YES ☐ NO.

22. ARE YOU NOW OR HAVE YOU EVER BEEN A MEMBER OF ANY FOREIGN OR DOMESTIC ORGANIZATION, ASSOCIATION, MOVEMENT, GROUP, OR COMBINATION OF PERSONS WHICH IS TOTALITARIAN, FASCIST, COMMUNIST, OR SUBVERSIVE, OR WHICH HAS ADOPTED, OR SHOWS, A POLICY OF ADVOCATING OR APPROVING THE COMMISSION OF ACTS OF FORCE OR VIOLENCE TO DENY OTHER PERSONS THEIR RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES, OR WHICH SEEKS TO ALTER THE FORM OF GOVERNMENT OF THE UNITED STATES BY UNCONSTITUTIONAL MEANS? ☐ YES ☐ NO.

23. IF YOUR ANSWER TO QUESTION 21 OR 22 ABOVE IS "YES," STATE THE NAMES OF ALL SUCH ORGANIZATIONS, ASSOCIATIONS, MOVEMENTS, GROUPS, OR COMBINATIONS OF PERSONS AND DATES OF MEMBERSHIP. IN ITEM 28 OR ON A SEPARATE SHEET TO BE ATTACHED TO AND MADE A PART OF THIS FORM, GIVE COMPLETE DETAILS OF YOUR ACTIVITIES THEREIN AND MAKE ANY EXPLANATION YOU DESIRE REGARDING YOUR MEMBERSHIP OR ACTIVITIES.

NAME IN FULL

ADDRESS

FROM

TO

OFFICE HELD

24. MEMBERSHIP IN OTHER ORGANIZATIONS. (List all organizations in which you are now a member or have been a member, except those which show religious or political affiliations.) (If none, so state.)

NAME IN FULL

ADDRESS

TYPE

FROM

TO

OFFICE HELD

(See Supplemental Sheets # 2 and 2(a))

25. RELATIVES. (Parents, spouse, divorced spouse, children, brothers, and sisters, living or dead. Name of spouse should include maiden name and any other names by previous marriage. If person is dead, state "dead" after relationship and furnish information for other columns as of time of death.)

RELATION

NAME IN FULL

YEAR OF BIRTH

ADDRESS

COUNTRY OF BIRTH

PRESENT CITIZENSHIP

(see attached sheet for new addresses and dates and places of birth)
Supplemental Sheet #1

also see additional SF-86

26a. REFERENCES. (Name three persons, not relatives or employers, who are aware of your qualifications and fitness.)

NAME IN FULL	HOME ADDRESS	BUSINESS ADDRESS	YEARS KNOWN
Joyce Keith	3169 Fairbury Lane, Fairfax, VA (703/273-2886)	MSPB, 1120 Vt. Ave., N.W., #826 Washington, D.C.	WFO 4 + (202/653-7114)
Verne Speirs	1421 Montague Dr., Vienna, VA (703/759-6576)	Washington, D.C.	13 + (202/653-7115)
Richard Redenius	1025 Union Church Rd., McLean, VA (703/759-2713)	(same for all 3)	3 + (202/653-6842)

26b. CLOSE PERSONAL ASSOCIATES. (Name three persons, such as friends, schoolmates or colleagues, who know you well.)

NAME IN FULL	HOME ADDRESS	BUSINESS ADDRESS	YEARS KNOWN
MGen. Thomas K. Turnage	4100 Cathedral Ave., NW, #718 Washington, D.C. 20016	1023 31st St., NW Washington, DC 20435	WFO 16 (202/724-0447)
Col. Frank Salcedo	2834 Kelly Sq., Vienna, VA 22180	1010 Wisc. Ave., NW, #330 Washington, DC 20007	16 (202/333-1080)
Dr. Vernon L. Grose	1101 S. Arlington Ridge Rd. #1117 Arlington, VA 22202	same	15 (703/685-0636)

27. TO YOUR KNOWLEDGE, HAVE YOU EVER BEEN THE SUBJECT OF A FULL FIELD OR BACKGROUND PERSONAL INVESTIGATION BY ANY AGENCY OF THE FEDERAL GOVERNMENT? ☒ YES ☐ NO. (If your answer is "Yes," show in item 28, (1) the name of the investigating agency (2) the approximate date of investigation, and (3) the level of security clearance granted, if known.)

28. SPACE FOR CONTINUING ANSWERS TO OTHER QUESTIONS. (Show item numbers to which answers apply. Attach a separate sheet if there is not enough space here.)

Item #27

FBI, 1981, equivalent to TOP SECRET (on a need to know basis). WFO

Items 20 and 25 on attached sheet -- Supplemental Sheet #1

Item 24 on Supplemental Sheets 2 and 2(a)

29. REPORT OF INFORMATION DEVELOPED. (This space reserved for FBI use.)

DATE:

Hebert E. Ellingwood

Before signing this form check back over it to make sure you have answered all questions fully and correctly.

CERTIFICATION

I CERTIFY that the statements made by me on this form are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

False statement on this form
is punishable by law.

6/20/85
(DATE)

Hebert E. Ellingwood
(SIGNATURE—Sign original and first carbon copy)

INFORMATION TO BE FURNISHED BY AGENCY

INSTRUCTIONS TO AGENCY: See Federal Personnel Manual Chapter 736 and FPM Supplement 296-31, Appendix A, for details on when this form is required and how it is used. If this is a request for investigation before appointment, insert "APPL" in the space for Date of Appointment and show information about the proposed appointment in the other spaces for appointment data. The original and the first carbon copy should be signed by the applicant or appointee. Submit the original and the unsigned carbon copy of the form, Standard Form 87 (Fingerprint Chart), and any investigative information about the person received on voucher forms or otherwise, to the United States Civil Service Commission, Bureau of Personnel Investigations, Washington, D.C., 20415. If this is a request for full field security investigation, submit these forms to the attention of the Division of Reimbursable Investigations; if this is a request for preappointment national agency checks, submit these forms to the attention of the Control Section.

RETAIN THE CARBON COPY OF STANDARD FORM 86 (SIGNED BY THE APPLICANT OR APPOINTEE) FOR YOUR FILES

DATE OF APPOINTMENT	TYPE OF APPOINTMENT <input type="checkbox"/> EXCEPTED <input type="checkbox"/> COMPETITIVE. (Include indefinite and temporary types of competitive appointments.)	CIVIL SERVICE REGULATION NUMBER OR OTHER APPOINTMENT AUTHORITY	TITLE OF POSITION AND GRADE OR SALARY
DEPARTMENT OR AGENCY	DUTY STATION	SEND RESULTS OF PREAPPOINTMENT CHECK TO:	
THIS IS A SENSITIVE POSITION			
(SIGNATURE AND TITLE OF AUTHORIZED AGENCY OFFICIAL)			

Standard Form 86
AUGUST 1964
U.S. CIVIL SERVICE COMMISSION
(F.P.M. CHAPTER 736)
56-107

SECURITY INVESTIGATION DATA FOR SENSITIVE POSITION

CASE SERIAL NO. (CSC use only)

INSTRUCTIONS.—Prepare in triplicate, using a typewriter. Fill in all items. If the answer is "No" or "None," so state. If more space is needed for any item, continue under item 28.

1. FULL NAME <i>(Initials and abridgements of full name are not acceptable. If no middle name, show "(NMN)"; if initials only, show "(no given or middle name)"</i>	<table style="width: 100%;"> <tr> <td style="width: 33%;">(LAST NAME) Ellingwood</td> <td style="width: 33%;">(FIRST NAME) Herbert</td> <td style="width: 33%;">(MIDDLE NAME) Eugene</td> </tr> </table>	(LAST NAME) Ellingwood	(FIRST NAME) Herbert	(MIDDLE NAME) Eugene	2. DATE OF BIRTH March 5, 1931	3. PLACE OF BIRTH Ordway, Colorado	
(LAST NAME) Ellingwood	(FIRST NAME) Herbert	(MIDDLE NAME) Eugene					
OTHER NAMES USED. <i>(Maiden name, names by former marriages, former names changed legally or otherwise, aliases, nicknames, etc. Specify which, and show dates used.)</i> None			4. <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE				
<p style="text-align: center;">ALL FBI INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld</p>			5. HEIGHT 5'10"	WEIGHT 180	COLOR EYES Blue	COLOR HAIR Blond	
6. <input type="checkbox"/> SINGLE <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> WIDOW(ER) <input type="checkbox"/> DIVORCED		7. IF MARRIED, WIDOWED, OR DIVORCED, GIVE FULL NAME AND DATE AND PLACE OF BIRTH OF SPOUSE OR FORMER SPOUSE. INCLUDE WIFE'S MAIDEN NAME. GIVE DATE AND PLACE OF MARRIAGE OR DIVORCE. <i>(Give same information regarding all previous marriages and divorces.)</i> Audrey Alice Kesler; Cass, West Virginia; August 19, 1932; married April 13, 1957, Baltimore, Maryland					
8. DATES AND PLACES OF RESIDENCE. <i>(If actual places of residence differ from the mailing addresses, furnish and identify both. Begin with present and go back to January 1, 1937. Continue under item 28 on other side if necessary.)</i>							
FROM	TO	NUMBER AND STREET	CITY	STATE			
8/79	Present	3523 Buckskin Court	Rocklin	California			
4/74	8/79	7595 Auburn Folsom Road	Loomis	California			
9/73	3/74	235 Macario Ct, #3	Roseville	California			
6/73	9/73	2751 Paseo Rio Way	Sacramento	California			
6/67	5/73	5401 Shelley Way	Carmichael	California			
1/67	6/67	Various Apartments	Sacramento	California			
1961	1966	18349 Almond Road	Castro Valley	California			
1957	1960	41241 Roberts Avenue	Fremont	California			
1942	1957	2 Maher Road	Watsonville	California			
1937	1942	101 Highway	Aromas	California			
9.							
<input checked="" type="checkbox"/> BY BIRTH <input type="checkbox"/> NATURALIZED		ALIEN REGISTRATION NO.	DATE, PLACE, AND COURT				
<input checked="" type="checkbox"/> U.S. CITIZEN		CERT. NO.	PETITION NO.				
<input type="checkbox"/> DERIVED-PARENTS CERT. NO(S).							
<input type="checkbox"/> ALIEN		REGISTRATION NO.	NATIVE COUNTRY	DATE AND PORT OF ENTRY			
10. EDUCATION. <i>(All schools above elementary.)</i>							
NAME OF SCHOOL	ADDRESS	FROM (Year)	TO (Year)	DEGREES			
Salinas Union High School	Salinas, Calif.	1945	1949	Diploma			
Yale University	New Haven, Conn.	1949	1953	BA			
Stanford Law School	Stanford, CA	1957	1960	LLB			
11. THIS SPACE FOR FBI USE. <i>(See also item 29.)</i>							
12. SOCIAL SECURITY NUMBER 726 09 4567							
13. MILITARY SERVICE (Past or present)							
SERIAL NO. <i>(If none, give grade or rating at separation)</i>		BRANCH OF SERVICE <i>(Army, Navy, Air Force, etc.)</i>		FROM (Yr.)	TO (Yr.)		
First Lt.		Army		1953	1956		

14. HAVE YOU EVER BEEN DISCHARGED FROM THE ARMED FORCES UNDER OTHER THAN HONORABLE CONDITIONS? ☐ YES ☒ NO.
(If answer is "Yes," give details in item 28.)

15. EMPLOYMENT. (List ALL employment dates starting with your present employment. Give both month and year for all dates. Show ALL dates and addresses when unemployed. Give name under which employed if different from name now used.)

FROM	TO	NAME OF EMPLOYER (Firm or agency) AND SUPERVISOR (Full name, if known)	ADDRESS (Where employed)	TYPE OF WORK	REASON FOR LEAVING
7/1979	Present	Caldwell & Toms	812 J Street Sacramento, CA	Attorney	Appointment
1/1975	6/79	California Attorney General	555 Capitol Mall Sacramento, CA	Attorney	Private Practice
2/69	12/74	California Governor	State Capitol Sacramento, CA	Attorney	Elections
11/66	1/69	State Bar of California	455 Capitol Mall Sacramento	Legislative Representative	To Governor's Office
6/60	10/66	District Attorney Alameda County	Courthouse, Oakland, CA	Attorney	To State Bar

16. HAVE YOU EVER BEEN DISCHARGED (FIRED) FROM EMPLOYMENT FOR ANY REASON? ☐ YES ☒ NO.

17. HAVE YOU EVER RESIGNED (QUIT) AFTER BEING INFORMED THAT YOUR EMPLOYER INTENDED TO DISCHARGE (FIRE) YOU FOR ANY REASON? ☐ YES ☒ NO.
(If your answer to 16 or 17 above is "Yes" give details in item 28. Show the name and address of employer, approximate date, and reasons in each case. This information should agree with the statements made in item 15—EMPLOYMENT.)

18. HAVE YOU EVER BEEN ARRESTED, TAKEN INTO CUSTODY, HELD FOR INVESTIGATION OR QUESTIONING, OR CHARGED BY ANY LAW ENFORCEMENT AUTHORITY?
(You may omit: (1) Traffic violations for which you paid a fine of \$30 or less; and (2) anything that happened before your 16th birthday. All other incidents must be included, even though they were dismissed or you merely forfeited collateral.) ☐ YES ☒ NO.

IF YOUR ANSWER IS "YES," GIVE FULL DETAILS BELOW:

DATE	CHARGE	PLAINT	LAW ENFORCEMENT AUTHORITY	ACTION TAKEN
------	--------	--------	------------------------------	--------------

19. HAVE YOU EVER HAD A NERVOUS BREAKDOWN OR HAVE YOU EVER HAD MEDICAL TREATMENT FOR A MENTAL CONDITION? ☐ YES ☒ NO.
(If your answer is "Yes," give details in item 28.)

20. FOREIGN COUNTRIES VISITED (SINCE 1930). (Exclusive of military service.)

COUNTRY

DATE LEFT U.S.A.

DATE RETURNED U.S.A.

PURPOSE

See attachment A

21. ARE YOU NOW, OR HAVE YOU EVER BEEN, A MEMBER OF THE COMMUNIST PARTY, U.S.A., OR ANY COMMUNIST OR FASCIST ORGANIZATION? ☐ YES ☒ NO.

22. ARE YOU NOW OR HAVE YOU EVER BEEN A MEMBER OF ANY FOREIGN OR DOMESTIC ORGANIZATION, ASSOCIATION, MOVEMENT, GROUP, OR COMBINATION OF PERSONS WHICH IS TOTALITARIAN, FASCIST, COMMUNIST, OR SUBVERSIVE, OR WHICH HAS ADOPTED, OR SHOWS, A POLICY OF ADVOCATING OR APPROVING THE COMMISSION OF ACTS OF FORCE OR VIOLENCE TO DENY OTHER PERSONS THEIR RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES, OR WHICH SEEKS TO ALTER THE FORM OF GOVERNMENT OF THE UNITED STATES BY UNCONSTITUTIONAL MEANS? ☐ YES ☒ NO.

23. IF YOUR ANSWER TO QUESTION 21 OR 22 ABOVE IS "YES," STATE THE NAMES OF ALL SUCH ORGANIZATIONS, ASSOCIATIONS, MOVEMENTS, GROUPS, OR COMBINATIONS OF PERSONS AND DATES OF MEMBERSHIP. IN ITEM 28 OR ON A SEPARATE SHEET TO BE ATTACHED TO AND MADE A PART OF THIS FORM, GIVE COMPLETE DETAILS OF YOUR ACTIVITIES THEREIN AND MAKE ANY EXPLANATION YOU DESIRE REGARDING YOUR MEMBERSHIP OR ACTIVITIES.

NAME IN FULL

ADDRESS

FROM

TO

OFFICE HELD

None

24. MEMBERSHIP IN OTHER ORGANIZATIONS. (List all organizations in which you are now a member or have been a member, except those which show religious or political affiliations.) (If none, so state.)

NAME IN FULL

ADDRESS

TYPE

FROM

TO

OFFICE HELD

See attachment B

25. RELATIVES. (Parents, spouse, divorced spouse, children, brothers, and sisters, living or dead. Name of spouse should include maiden name and any other names by previous marriage. If person is dead, state "dead" after relationship and furnish information for other columns as of time of death.)

RELATION

NAME IN FULL

YEAR OF BIRTH

ADDRESS

COUNTRY OF BIRTH

PRESENT CITIZENSHIP

X Father Harry Clifford Ellingwood 1900 Deceased U. S. Yes

SF Mother Edith Arleene Ellingwood 1900 1763 GreenValleyRD U. S. Yes

Watsonville, CA

AX/RH Wife Audrey Alice Kesler 1932 3523 Buckskin Ct U. S. Yes

Rocklin, CA

LA Son Edwin Bruce Ellingwood 1963 3523 Buckskin Ct U. S. Yes

Rocklin, CA

AN/RH Son Thomas Barry Ellingwood 1967 3523 Buckskin Ct U. S. Yes

Rocklin, CA

Sister Juanita Ellingwood 1924 Deceased U. S. Yes

SF Sister Pauline Nelson 1926 792 Echo Valley Rd U. S. Yes

Salinas, CA

SF Sister Mildred Chapman 1928 1763 GreenValleyRd U. S. Yes

Watsonville, CA

SF Brother Al Ellingwood 1935 1000 Highway 101 Aronas, CA U. S. Yes

Brother Wayne Ellingwood 1938 P.O.Box 505, Roodepoort Tvl U. S. Yes

26a REFERENCES (Name three persons, not relatives or employers, who are aware of your qualifications and fitness.)

NAME IN FULL	HOME ADDRESS	BUSINESS ADDRESS	YEARS KNOWN
Rev. Orville Easterly	1041 Audrey Way, Roseville	202 Bonita Ave. Roseville, CA	7
Walter Hanson	4633 Whitney Avenue, Sacramento, CA		20
Steven Merksamer	4700 Olive Oak Way, Carmichael	555 Capitol Mall	15

26b. CLOSE PERSONAL ASSOCIATES. (Name three persons, such as friends, schoolmates or colleagues, who know you well.)

NAME IN FULL	HOME ADDRESS	BUSINESS ADDRESS	YEARS KNOWN
Peter DeMauro	142 Gold Oak Circle, Folsom, CA	555 Capitol Mall Sacramento	6
Flo Snyder	326 Rio Grande, Sacramento, CA	555 Capitol Mall Sacramento	6
Kay Eldridge	3790 Oakdale Ct, Rocklin, CA	812 J Street, Sacramento	12

27. TO YOUR KNOWLEDGE, HAVE YOU EVER BEEN THE SUBJECT OF A FULL FIELD OR BACKGROUND PERSONAL INVESTIGATION BY ANY AGENCY OF THE FEDERAL GOVERNMENT? ☒ YES ☐ NO. (If your answer is "Yes," show in item 28, (1) the name of the investigating agency (2) the approximate date of investigation, and (3) the level of security clearance granted, if known.)

28. SPACE FOR CONTINUING ANSWERS TO OTHER QUESTIONS. (Show item numbers to which answers apply. Attach a separate sheet if there is not enough space here.)

#27 - Counter Intelligence, 1954; top secret

29. REPORT OF INFORMATION DEVELOPED. (This space reserved for FBI use.)

DATE:

Before signing this form check back over it to make sure you have answered all questions fully and correctly.

CERTIFICATION

I CERTIFY that the statements made by me on this form are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

False statement on this form
is punishable by law.3/11/81
(DATE)Duane E. Ellingwood
(SIGNATURE—Sign original and first carbon copy)

INFORMATION TO BE FURNISHED BY AGENCY

INSTRUCTIONS TO AGENCY: See Federal Personnel Manual Chapter 736 and FPM Supplement 296-31, Appendix A, for details on when this form is required and how it is used. If this is a request for investigation before appointment, insert "APPL" in the space for Date of Appointment and show information about the proposed appointment in the other spaces for appointment data. The original and the first carbon copy should be signed by the applicant or appointee. Submit the original and the unsigned carbon copy of the form, Standard Form 87 (Fingerprint Chart), and any investigative information about the person received on voucher forms or otherwise, to the United States Civil Service Commission, Bureau of Personnel Investigations, Washington, D.C., 20415. If this is a request for full field security investigation, submit these forms to the attention of the Division of Reimbursable Investigations; if this is a request for preappointment national agency checks, submit these forms to the attention of the Control Section.

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DATE OF APPOINTMENT	TYPE OF APPOINTMENT <input type="checkbox"/> EXCEPTED <input type="checkbox"/> COMPETITIVE. (Include indefinite and temporary types of competitive appointments.)	CIVIL SERVICE REGULATION NUMBER OR OTHER APPOINTMENT AUTHORITY	TITLE OF POSITION AND GRADE OR SALARY
DEPARTMENT OR AGENCY	DUTY STATION	SEND RESULTS OF PREAPPOINTMENT CHECK TO:	
THIS IS A SENSITIVE POSITION		-4-	
(SIGNATURE AND TITLE OF AUTHORIZED AGENCY OFFICIAL)			

SUPPLEMENT TO SF-86
(Attach additional pages if necessary)

1. Please furnish the names and addresses of all corporations, firms or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions with which you are presently associated or have been associated during the past five years either as officer, director, trustee, sole owner, partner or stockholder with controlling interest.

(See Supplemental Sheets #2 and 2(a))

2. Have you ever been a candidate for Federal, state or local elected office, or a treasurer or other officer of a political committee? Were there any complaints lodged with the Federal Election Commission or state or local election authorities against you or your political committee? If so, please explain.

Yes - Placer County Republican Central Committee, California - 1978
No complaints were ever lodged against me.

3. Do you maintain any residence other than your permanent residence; e.g., vacation home? If so, please furnish address.

My legal residence is: 5629 Maple Ridge Court
Rocklin, California 95677

SC

4. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please give full details.

None except in the course of regular governmental business wherein complaints have been made or suits filed, of which none have resulted in any actions against me. Co-Congresswoman Patricia Schroeder (Colorado) chairs the Subcommittee overseeing MSPB and has initiated inquiries into my personal and activities. (See attached GAO letter dated 6/6/84 and (over) responses to the questions for confirmation to my present position.)

5. To your knowledge have your activities or those of any of your business enterprises, or associates in those enterprises, ever been the subject of criminal investigation, or a civil enforcement investigation or proceeding? If so, please give full details.

None

6. Have you every been a party in any civil court action? If so, please give full details.

None except as in answer to question 4, this document.

I understand that the information being provided on this supplement to the SF-86 is to be considered part of the original SF-86 dated 6/20/85 and a false statement on this form is punishable by law.

Signed

Walter E. Ellingwood

SUPPLEMENTAL SHEET # 1

Item #20

<u>COUNTRY</u>	<u>DATES</u>	<u>PURPOSE</u>
China	Oct. 31 - Nov. 15, 1982	Tourist
	Feb. 12 - 13, 1984	"
Costa Rica	Feb. 22 - 24, 1984	"
Hong Kong	Nov. 10 - 15, 1981	"
	Nov. 15 - 17, 1982	"
	Feb. 11 - 13, 1984	"
	Mar. 14 - 16, 1985	"
Indonesia	Feb. 16 - 18, 1984	"
Japan	Nov. 15 - 17, 1981	"
Korea	Nov. 6 - 10, 1981	"
Macau	Feb. 13, 1984	"
Singapore	Feb. 14 - 16, 1984	"
Taiwan	Feb. 9 - 11, 1984	"
	Feb. 18 - 19, 1984	"
	Mar. 10 - 14, 1985	"

Item #25

	<u>City & State of Birth</u>
X Father - Harry Clifford Ellingwood - July/29, 1900	Albia, Iowa
SF Mother - Edith Arleene Ellingwood - March 12, 1900 - Ames, Kansas	Ames, Kansas
Wife - Audrey Alice Kesler - Aug. 19, 1932	Cass, W.Va.
(new address: 6607 Briar Hill Court McLean, VA 22101) AX/RH	
Son - Edwin Bruce Ellingwood - Nov. 17, 1963	Castro Valley, Calif.
(new address: 6242 Green Tavern Lane Yorba Linda, CA 92686) LA	
Son - Thomas Barry Ellingwood - Mar. 18, 1967	Castro Valley, Calif.
(new address: 6607 Briar Hill Court McLean, VA 22101) AX/RH	
X Sister - Juanita Ellingwood - July 19, 1924	LaJunta, Colorado
Sister - Pauline Nelson - Sept. 13, 1926 SF	" "
Sister - Mildred Chapman - Sept. 29, 1928	Ordway, Colorado
(new address: 1355 Independence Sq. Watsonville, CA 75076) SF	
Brother - Al Ellingwood - Sept. 15, 1934 SF	Aromas, CA
Brother - Wayne Ellingwood - May 19, 1938	" "
(new address: 2862 Cottonwood Orange, CA 92665) LA	

SUPPLEMENTAL SHEET # 2

Question 1, Supplement to SF-86

In addition to those affiliations listed in Question 24 of Form 86, dated 3/11/81:

Foundation For Christian Youth Leadership (Board Member)
15816 Lazy Day Lane, Dumfries, VA 22026

Monte Vista Christian High School (Board Member)
2 School Way, Watsonville, CA 95076

CBN University (Regent)
Virginia Beach, VA 23463

Strawberries & Stuff (President)
5629 Maple Ridge Court, Rocklin, CA 95677

SC

Laws at Work (former Vice President)
5670 Wilshire Boulevard, Suite 2130, Los Angeles, CA 90036

Religious Heritage of America (Board Member)
7900 Jerome Avenue, St. Louis, Missouri 63143

Greater Washington Billy Graham Crusade (Secretary)
P.O. Box 39099, Washington, D.C. 20016

Here's Life Washington (Board Member)
3030 N. Fairfax Drive, Suite 314, Arlington, VA 22201

Full Gospel Businessmen's Fellowship International (Director)
3150 Bear Street, Costa Mesa, CA 92626

Caldwell & Toms (law firm)-- former partner
700 S. Flower Street, 15th Floor, Los Angeles, CA 90017

S.K. Sung, Inc. (former officer)
P.O. Box 24466, San Jose, CA 95154

SF

Nellie Gail #1 Associates (former partner)
24882 Buckboard, Laguna Hills, CA 92653

Giebel Petroleum and Investments (sometimes this is listed as a partnership, but I am a very minor investor)
1 Marienfeld Place, Midland, Texas 79701

Shelbourne Estates Homeowners Association (former officer)
7575 Auburn-Folsom Road, Loomis, CA 95650

Sunrise Christian Schools (former trustee)
202 Bonita Avenue, Roseville, CA 95678

QUESTION 20:

Foreign Countries Visited	Dates	Purpose
Canada	1953, 1957, 1976	Tourist
Mexico - Many times to Tijuana; latest in 1978		
England, Scotland, Ireland, France, West Germany, Switzerland, Lichenstein, Belgium, Luxemburg, Netherlands, Sweden, Spain, Monte Carlo, Italy, Austria, Saar	1955, 1956	Tourist While in Military
Taiwan	4/2/79 - 4/9/79 7/12/79 - 7/22/79 3/1/80 - 3/6/80 11/30/80 - 12/3/80 2/28/81 - 3/5/81	4/13/79 7/22/79 3/7/80 12/3/80 3/9/81 Tourist
Philippines	4/11/79 - 4/13/79 2/28/80 - 3/1/80 6/7/80 - 6/8/80 3/5/81 - 3/6/81	4/13/79 3/7/80 6/8/80 3/9/81 Tourist
HongKong	4/9/79 - 4/11/79 11/6/79 - 11/7/79 3/6/80 - 3/7/80 6/19/80 - 6/21/80	4/13/79 11/7/79 3/7/80 6/21/80 Tourist
Korea	10/25/79 - 10/28/79	Tourist
China	October/November 1979 6/8/80 - 6/19/80	11/7/79 6/21/80 Tourist
Singapore	3/6/81 - 3/9/81	3/9/81 Tourist

Question 24:

Membership in Other Organizations:

	Type	From - To	Office Held
State Bar of California 555 Franklin St., San Francisco	Professional	1960 to Present	Various Offices
American Bar Association 1800 M Street, N.W. Washington DC	"	1960 to Present	"
Sacramento County Bar Association 901 H Street, Sacramento, CA	"	1967 to Present	None
Placer County Bar Assn. 730 Sunrise Avenue, Roseville	"	1974 to Present	None
Christian Legal Society P. O. Box 2069, Oak Park, Ill.	"	1967 to Present	National President
Chabot College 2555 Hesperian Blvd., Hayward, CA	Education	Circa 1965	Instructor
Calif. Specialized Training Institute	Education	1972-1974	Member, Academic Bd.
Oakland Junior Chamber of Commerce Oakland, CA	Civic	1960-1967	Various Committees
Alpha Foundation 22556 Gilmore St., Canoga Park, CA	Education	1972 - Present	Director
Institute of Continuing Studies, California State University Sacramento, CA	"	1976 - Present	Member, Advisory Bd
California Junior Statesmen of America Foundation 480 California Ave., Palo Alto CA	Education	1964 - Present	Various Offices

SUPPLEMENTAL SHEET # 2(a)

Continuation of Question 1, Supplement to SF-86

I am no longer a member of the following organizations listed in the above dated Form 86:

Sacramento County Bar Association
Sacramento, CA 95814

Placer County Bar Association
Roseville, CA 95678

Alpha Foundation
1101 S. Arlington Ridge Road, Suite 1117
Arlington, VA 22202

Institute of Continuing Studies, California State
University at Sacramento
Sacramento, CA 95825

I have not been an officer of the Christian Legal Society (P.O. Box 1492, Springfield, VA 22151) within the last 5 years, and am no longer an officer of Laws at Work (address previously listed).

The California Peace Officers' Association should have been listed in 1981; I am still a member (not an officer) of the organization. (12th & L, Sacramento, CA 95814)

AUTHORITY TO RELEASE INFORMATION

TO WHOM IT MAY CONCERN:

I hereby authorize any Special Agent or other authorized representative of the Federal Bureau of Investigation bearing this release, or copy thereof, within one year of its date, to obtain any information in your files pertaining to my educational records including, but not limited to, academic, achievement, attendance, athletic, personal history, and disciplinary records; employment records; law enforcement records (including, but not limited to any record of charge, prosecution, or conviction for criminal or civil offenses); and credit records, including credit card and payment device numbers. I hereby direct you to release such information upon request of the bearer. This release is executed with full knowledge and understanding that the information is for the official use of the Federal Bureau of Investigation. Consent is granted for the FBI to furnish such information, as is described above, to third parties in the course of fulfilling its official responsibilities. I hereby release you, as the custodian of such records, and any school, college, university, or other educational institution, credit bureau or consumer reporting agency, retail business establishment, law enforcement agency, or criminal justice agency, including its officers, employees, or related personnel, both individually and collectively, from any and all liability for damages of whatever kind, which may at any time result to me, my heirs, family or associates because of compliance with this authorization and request to release information, or any attempt to comply with it. Should there be any question as to the validity of this release, you may contact me as indicated below:

Full Name:

Herbert E. Ellingwood

Signature

Full Name:

HERBERT EUGENE ELLINGWOOD

Type or Print Name

Parent or Guardian
(if required):

Date:

June 20, 1985

Current
Address:

6607 Briar Hill Court

McLean, VA 22101

Telephone
Number:

703/734-6931

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

AUTHORITY TO RELEASE INFORMATION

TO WHOM IT MAY CONCERN:

I hereby authorize any Special Agent or other authorized representative of the Federal Bureau of Investigation bearing this release, or copy thereof, within one year of its date, to obtain any information in your files pertaining to my educational records including, but not limited to, academic, achievement, attendance, athletic, personal history, and disciplinary records; employment records; law enforcement records (including, but not limited to any record of charge, prosecution, or conviction for criminal or civil offenses); and credit records, including credit card and payment device numbers. I hereby direct you to release such information upon request of the bearer. This release is executed with full knowledge and understanding that the information is for the official use of the Federal Bureau of Investigation. Consent is granted for the FBI to furnish such information, as is described above, to third parties in the course of fulfilling its official responsibilities. I hereby release you, as the custodian of such records, and any school, college, university, or other educational institution, credit bureau or consumer reporting agency, retail business establishment, law enforcement agency, or criminal justice agency, including its officers, employees, or related personnel, both individually and collectively, from any and all liability for damages of whatever kind, which may at any time result to me, my heirs, family or associates because of compliance with this authorization and request to release information, or any attempt to comply with it. Should there be any question as to the validity of this release, you may contact me as indicated below:

Full Name:

Herbert E. Ellingwood
Signature

Full Name:

HERBERT EUGENE ELLINGWOOD

Type or Print Name

Parent or Guardian
(if required):

Date:

June 20, 1985

Current
Address:

6607 Briar Hill Court

McLean, VA 22101

Telephone
Number:

703/734-6931

THE WHITE HOUSE

WASHINGTON

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

MEMORANDUM FOR PROSPECTIVE APPOINTEES

FROM: FRED F. FIELDING *[Signature]*
COUNSEL TO THE PRESIDENT

This letter confirms in writing your express consent for the Federal Bureau of Investigation to investigate your background in connection with the consideration of your application for employment.

You should be aware that the authority to collect this background information is based on the President's executive powers in Article II of the Constitution. The information will be used to obtain necessary clearances to assist you in your work. The background information, which includes a review of FBI files, will be disclosed to another Federal agency, to assist in its process of clearing you. Willfully making a false statement, or concealing a material fact, may constitute a violation of Section 1001, Title 18, of the U.S. Code.

If you provide any information which indicates a violation of law, whether civil, criminal or regulatory in nature, it will be referred to the appropriate Federal, state, local or foreign agency.

By volunteering information concerning activities protected by the First Amendment, it will be assumed that you are expressly authorizing the maintenance of this information in the records of any Federal agency.

The FBI investigation will include the collection and use of relevant information in the files of various Federal agencies and it is necessary that you authorize the disclosure of such information to the FBI.

If you consent to such an investigation, and to the disclosure of relevant information by other Federal departments and agencies to the FBI, please sign your name below and return this original letter of consent to me.

Thank you.

Name (please print) HERBERT EUGENE ELLINGWOOD

Signature *Herbert E. Ellingwood* Date 6/20/85

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION:

1. Name: (Include any former names used.)
Herbert Eugene Ellingwood
2. Address: List current residence address and mailing address. 6607 Briar Hill Court, McLean, Virginia 22101
3. Date and Place of Birth: March 5, 1931
Ordway, Colorado
4. Marital Status: (Include maiden name of wife or husband's name.) Audrey Kesler Ellingwood
5. Names and ages of children:
Edwin Bruce Ellingwood - age 18
Thomas Barry Ellingwood - age 15
6. Education: List institution(s), dates attended, degree received and date degree granted.

Aromas Grammar School - 1937-1945
Salinas Union High School - 1945-1949
Yale University - 1949-1953 - B.A. degree
(major: Political Science and Economics)
Stanford University Law School - 1957-1960 - LL.B.

7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Deputy District Attorney - Alameda County, California - 1960-1966; also Legislative Advocate for the Law and Legislative Committees, California District Attorneys' and California Peace Officers' Associations

Legislative Representative, State Bar of California - 1966-1969 (Sacramento, California)

Legal Affairs Secretary to Governor Ronald Reagan - Sacramento, California - February 1, 1969 to December 31, 1974

Special Assistant Attorney General, State of California - Sacramento, California - January 1, 1975 to July 1, 1979

Private Law Practice - Firm of Caldwell and Toms - Sacramento, California - July 1979 to March 1981

Employment record continued:

Deputy Counsel to the President of the United States,
The White House, Washington, D.C. - March 1981 to
December 1981

8. Government Experience: List any experience in, or association with Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

All my employment has been with Federal, state or local government except for the State Bar activity (1966-1969) and the private law practice (1979-1981). (See answer #10 for other activity.)

9. Business Relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational, or other institution.

1979-1981 - Partner in firm of Caldwell and Toms,
611 W. 6th Street, Los Angeles, California 90017

Corporations

Vence Associates, Inc., 611 W. 6th Street, Los Angeles,
California 90017 - stockholder - 1980-1981

S.K. Sung, Inc., 3595 Almaden Road, San Jose, California
95118 - officer (stock not issued prior to resignation) -
1980-1981

Strawberries & Stuff, 1450 W. Colonial Parkway, Roseville,
California 95678 - officer, stockholder - 1980-present

Partnerships

Nellie Gail #1 Associates, 24882 Buckboard, Laguna Hills,
California 92653 - 1980-present

Giebel Petroleum & Investments, 1 Marienfeld Place,
Midland, Texas 79701 - 1979-present

Other

Shelbourne Estates Homeowners Association, 7575 Auburn-
Folsom Road, Loomis, California 95650 - Officer - 1980-1981

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic charitable and other organizations.

American Bar Association - Criminal Law Section, various committees

Christian Legal Society - National President, 1976-1977; National Board of Directors, 1974-1975; member, 1967-present

State Bar of California - Member, Committee on Criminal Law and Procedure, 1970-1973

Alameda County Bar Association, 1960-1981

Sacramento County Bar Association

Placer County Bar Association

California Organized Crime Control Commission, 1977-1978 (member)

Peace Officers Standards and Training Advisory Committee, member, 1980-1981

California Peace Officers' Association - Federal Law Enforcement Assistance Act Committee; Standards and Ethics Committee

California District Attorneys' Association - Federal Law Enforcement Assistance Act Committee

California Sheriffs' Association, 1960-1981

University of California, School of Criminology - Federal Law Enforcement Assistance Act Committee

Delegate, White House Conference on Children, 1970

Delegate, National Conference on the Judiciary, 1971

Delegate to the National Conference on Corrections, 1971

Delegate, National Conference on Criminal Justice, 1973

Member, California Council on Criminal Justice, 1969-1975 - Member, Riots and Disorders Task Force, 1969-1970 - Chairman, Judicial Process Task Force, 1970-1974 - Member, Executive Committee, 1970-1975 - Chairman, Planning Allocation Committee, 1971-1974

Member, California State Communications Advisory Board, 1970-1974

California Commission on Peace Officer Standards and Training, Attorney General's Representative, 1975-1979

Memberships continued:

Project SAFER CALIFORNIA, Member - Judicial Process Personnel and Institutions, 1974

Member, Advisory Board to the Joint Legislative Committee for Revision of the Penal Code (California)

California State Bar Conference on Trial and Appellate Court Reform, Participant

Member of and Speaker at California Governor's Traffic Safety Conference, 1965

Member of Citizens' Advisory Committee to the Joint Legislative Committee for Revision of the Penal Code

Member of the Governmental Affairs Council, 1980

Member, Academic Board, California Civil Disorder Management Course, California Specialized Training Institute, Camp San Luis Obispo, 1971-1974

Member, Attorney General's Task Force on Parole and Probation, 1971-1972

Member, Citizen Advisory Committee, Correctional System Study, Board of Corrections, 1970-1974

Advisor, California Assembly Criminal Justice Cost Project, 1970-1971

Advisor, California Chief Justice's Select Committee on Trial Court Delay, 1971-1972

Editor of Digest of Legislation Affecting Criminal Law and Procedure, 1972-1976

California Governor's Select Committee on Law Enforcement Problems, Member, Steering Committee, 1972-1973

Instructor, Criminal Law, Chabot College, 1964

California Christian Committee for Israel, Member, 1976-present

Member, Advisory Board of the Institute of Continuing Studies, California State University, 1976-1981

Vice President of Laws At Work - 1979

Regent, CBN University, Virginia Beach, Virginia, 1979-present

Memberships continued:

Teen Challenge - Advisory Council Member, Santa Cruz, California, 1962-1981

Monte Vista Christian High School Board of Trustees, Watsonville, California, 1960-present

Bethany Bible College, Santa Cruz, California - College Council, Vice Chairman, 1965-1968; Chairman, 1968-1974; Development Cabinet, Chairman, 1968-1970; Member, 1975-1980

Roseville Assembly of God Church, Roseville, California, Elder

Member, Association of the United States Army, Mother Lode Chapter, 1970-1974

Member, Board of Directors of the Alpha Foundation, a scientific, literary and educational corporation established to research, develop and sponsor community impact programs, 1972-1981

Deputy District Commander of the Royal Rangers. This is a boys' group within the Assemblies of God, a religious organization; it is similar to Boy Scouts. As Deputy District Commander, I was responsible for the program in 350 churches during the 1960s.

Commonwealth Club, San Francisco, California

Comstock Club, Sacramento, California

California Junior Statesmen of America Foundation; at various times, I was Trustee, Secretary, and a Vice President; I was Chairman of the Summer School in 1965, 1966, 1967.

California State Department of Education, Advisory Committee on Guidelines for Moral Instruction in California Schools

Sunrise Christian Schools, Roseville, California, Member, Board of Trustees, 1976-1981

11. Political Affiliations and Activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last ten years.

Political Affiliations and Activities continued:

Registered Republican

Precinct Captain, Alameda County, California, 1960-1966

Placer County Republican Central Committee, member,
1977-1981; Chairman, 1979-1980

California Republican State Central Committee, 1977-1981

Alternate Delegate, National Republican Convention, 1976

Delegate at Large, National Republican Convention, 1980

Small financial contributions have been made to each of
the above organizations and to various candidates,
partisan and non-partisan, over the last ten years.
During the last election, I supported Congressman Gene
Chappie and President Reagan.

12. Honors and Awards: List all scholarships, fellowships,
honorary degrees, honorary society
memberships, and any other special
recognitions for outstanding service
or achievements.

Scholarships

Yale University

B.P.O.E.

Sears-Roebuck

Special Recognition

California Scholarship Federation

California Peace Officers' Association

California State Sheriffs' Association

California District Attorneys' Association

Peace Officers Research Association of California

Oakland California Police Department

Alameda County, California

Port of Oakland

California Junior Chamber of Commerce

Laws At Work

Los Angeles Board of Supervisors

Los Angeles City Council

Special Recognition continued:

Christian Legal Society

Religious Heritage of America

Association of Christian Schools International

Office of the California Attorney General

California Legislature

13. Published Writings: List titles, publishers and dates of books, articles, reports or other published materials you have written.

Editor, Digest of Legislation Affecting Criminal Law and Procedure, 1972-1976

Article: Ronald Reagan, "God, Home and Country" - Christian Life Magazine, November 1980

Article: New Wine Magazine - "Not Guilty," October 1976
"Crime Hurts," May 1977

14. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last five years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

None

15. Selection: a. Do you know why you were chosen for this for this nomination by the President?
- b. What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?
- a. I was his Legal Affairs Secretary from 1969-1974 and his Deputy Counsel during 1981. I assume he has confidence in me.
- b. I have over 20 years of legal experience, almost all of which has been in government. In private practice, I did some personnel law.

B. FINANCIAL DATA: All information requested under this heading must be provided for yourself, your spouse, and your dependents. The financial statement should be certified, unless special permission has been granted by the Chairman to waive certification. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files, and will be available for public inspection):

1. Provide a complete, current and certified financial net worth statement which itemizes in detail:
 - a. The identity and value of all assets held, directly or indirectly, with a value in excess of \$1,000. This itemization should include, but not be limited to, bank account securities, commodities futures, real estate, trusts, investments and other personal property held in a trade or business or for investment. Household furnishings, clothing and automobiles need not be reported.
 - b. The identity and amount of each liability owed, directly or indirectly, which is in excess of \$1,000. This should include, but not be limited to, debts, mortgages, loans and other financial obligations for which you, your spouse, or your dependents have a direct liability or which may be guaranteed by yourself, your spouse, or your dependents. In identifying each such liability, indicate the nature of the liability, the name of the person owed and the terms of payment.

Answers

Assets:

a. Banks and other financial institutions

Bank of America - #C0869-1-02877 \$ 1,500
Country Club Plaza, Sacramento, CA

Central Bank - numbers 5-516671,
5-512050, & 7-655055 \$19,000
12 & J, Sacramento, CA 95814

1st American
McLean, VA - #18045073-0695 \$ 2,000
17th & Pennsylvania,
Washington, D.C. - #5-221-499-0197 .. \$ 2,000

Union Bank - #6500041275 \$ 2,800
555 Capitol Mall, Sacramento, CA

B-1-a continued

White House Credit Union - #6456-015 \$ 5,000
17th & Pennsylvania Avenue,
Washington, D.C.

Wells Fargo Bank - TC#390-019719-000 \$ 1,735
(trustee, joint CD#390-019719-000 \$ 1,650
accounts for TC#390-019701-000 \$ 1,760
children) CD#390-019701-000\$ 1,000
P.O.Drawer A, Roseville, CA 95678

Accounts Receivable

Frank Salcedo, 903 Ridge Drive, McLean,
Virginia 22101 - loaned in early 1980,
due on demand, no interest \$ 5,000

Telford Marsh, 1450 W. Colonial Parkway,
Roseville, CA (an in-law) - loaned in
1981, due on demand, no interest \$ 5,000

Leonard Flory, 7512 Soules, Sacramento,
CA 95823 - due on demand, prime plus
one \$ 1,500

Nellie Gail #1 Associates, 24882 Buckboard,
Laguna Hills, CA - due on refinancing of
house, interest at 14% \$ 5,700

Federal Tax Refund for 1980 \$ 4,600

Strawberries & Stuff (for inventory) \$ 1,000

Securities

International Robotmation \$ 1,500

Strawberries & Stuff \$ 2,000

Partnerships

Giebel Petroleum & Investments, One
Marienfeld Place, Midland, TX 79701

Investment - 1978 \$15,000
Investment - 1979 \$12,500
Investment - 1980 \$25,000

Real Estate

Shelbourne Estates, Lot 13, Loomis,
CA - unimproved \$95,000

6607 Briar Hill Court, McLean,
VA 22101\$260,000

B-1-a continued

Retirement

Alameda County, California \$ 7,575
State of California \$33,125

Other

Promissory Note by former law firm of
Caldwell and Toms, 611 W. 6th Street,
Los Angeles, CA 90017 to pay off
Crocker Bank loan of \$45,000 \$45,000

b. Liabilities

Installment payments

White House Credit Union, 17th &
Pennsylvania Ave., Washington,
D.C. 20500, loan for purchase
of car, interest at 13% -
\$316/month - #6456-045 \$10,000
GMAC, loan to son, Bruce, for purchase
of car, 3 years at 18% - \$100/month ... \$ 2,500
Washington Federal Savings, 5101 Wisconsin
Avenue, N.W., Washington, D.C. 20016 -
mortgage on residence; loan #330-7112-4;
interest at 11-3/4%, 30 years \$150,000

Notes payable

Crocker National Bank, 611 West
6th Street, Los Angeles, CA 90060 \$45,000
(5-year loan - prime plus one)

Line of Credit

Crocker National Bank, 611 West
6th Street, Los Angeles, CA 90060 \$13,500
(prime plus 1)
Union Bank, 555 Capitol Mall,
Sacramento, CA (prime plus 1) \$ 8,000

Other

Wording by Fidelity Savings & Loan may
leave me liable on house loan at
1450 W. Colonial Parkway, Roseville,
CA 95678. A relative purchased property
from me in 1979; 30 years at 10%
interest \$63,000

2. Provide a list of all other liabilities owed, directly or indirectly, having a value in excess of \$1,000 at any time during the last 12 months. Identify the nature of each liability, the amount, the name of the person owed. Describe the terms of each liability, the security or collateral for each liability, and the current status of the debt repayment.

Answer - Tony Musolino, 7575 Auburn Folsom Road, Loomis, California 95650; held a demand note for \$25,000 at 10% interest as a first mortgage on Lot 13, unimproved real property. That has been paid.

Fidelity Savings, Greenback, Citrus Heights, California, loaned \$110,000 for a residence at 3523 Buckskin Court, Rocklin, California 95677; that residence was sold and the loan assumed by the buyer. The proceeds from that sale were used to buy my current residence, 6607 Briar Hill Court, McLean, Virginia. The loan outstanding is for \$150,000 for 30 years at 11-3/4% interest is held by Washington Federal Savings & Loan, 5101 Wisconsin Avenue, N.W., Washington, D.C. 20016.

A burglar alarm system was installed with the building of this home, was billed and paid separately, and cost about \$3,000.

United Van Lines was paid \$9,286.51 for moving household from California to Virginia.

John Elmas, 8146 Greenback Lane, Suite 206, Fair Oaks, California 95628, a jeweler, was paid \$1,485 for jewelry.

Credit cards and department store revolving accounts have gone over \$1,000 at various times; none now exceed that amount.

3. Provide the identity, date, and amount of all transactions, directly or indirectly, in securities, commodities futures, and real estate or other investments, having a value in excess of \$1,000, which have taken place within the last 12 months. For purposes of this paragraph, the identity of individuals or charitable organizations need not be reported but should be indicated.

Answer - I purchased 200 shares of International Robotmation stock for \$1500 on January 22, 1982, through Monzanto Securities.

1976 Ford LTD was sold for \$1200 in March, 1982.

Strawberries & Stuff, Inc., all stock owned by persons outside my immediate family was purchased by the corporation for \$3,500 in March, 1981.

B-3 continued

Union Bank, 555 Capitol Mall, Sacramento, California,
line of credit paid off, as required annually.

4. Provide the identity of and a description of the nature of any interest in an option, mineral lease, copyright, or patent held directly or indirectly, during the past 12 months and indicate which, if any, have been divested and the date of divestment.

Answer - I have a limited partnership in Giebel Petroleum and Investments, One Marienfeld Place, Midland, Texas 79701. I invested in their 1978 (\$15,000), 1979 (\$12,500), and 1980 (\$25,000) programs.

5. Describe the terms of any beneficial trust or blind trust of which you, your spouse, or your dependents may be a beneficiary. In the case of a blind trust, provide the name of the trustee(s) and a copy of the trust agreement.

Answer - None

6. Provide a description of any fiduciary responsibility or power of attorney which you hold for or on behalf of any other person.

Answer - None, other than joint bank accounts with my immediate family.

7. List sources and amounts of all items of value in an amount exceeding \$100.00 received by you, your spouse and your dependents during each of the last three years. This should include, but not be limited to, salaries, wages, fees, dividends, capital gains or losses, interest, gifts, rents, royalties, patents and honoraria. Gifts received from members of your immediate family need not be listed.

Answer:

Income

1978 - Wages:	Self -- State of California	\$43,008
Interest:	Placer Savings	398
	Sacramento Savings	124
Lecture:	Honoraria less expenses	1,837
1979 - Wages:	Self -- State of California	\$27,078
	Caldwell & Toms	22,500
	Wife -- Sunrise Christian School	7,700

B-7 continued:

Income (continued)

1979 (continued) - Interest:	Heart Federal	\$ 1,394
	Sacramento Savings	128
	Placer Savings	506
	Union Bank	450
	Marsh	761
	Oil Royalties	\$ 518
	Sale of Residence	\$26,312
	Lecture Honoraria: I need to supplement this item if individual appearances exceeded \$100.	
1980 - Wages:	Wife -- Sunrise Christian School	\$ 8,760
	Self -- Partnership, Caldwell & Toms	\$30,930
Interest:	Wells Fargo	\$ 442
	Placer Savings	685
	Union Bank	626
	Central Bank	221
Lecture Honoraria:	Full Gospel Business Men's Fellowship International (FGBMFI) Tulsa, Oklahoma	\$ 150
	FGBMFI, Portland, OR	150
	FGBMFI, Oroville, CA	100
1981 - Wages:	Wife -- Foothill Christian Schools-	\$ 5,815
	Warehouse Ministries	13,000
Self --	State of California (Attorney General's office)	2,397
	Caldwell & Toms (law part- nership)	7,000
	Deputy Counsel to the President	39,412
	Merit Systems Protection Board (Chairman)	2,308
Both --	Wildlife Art (art sales and consultation)	7,200

B-7 continued:

Income (continued)

1981 (continued) - Honoraria:

Roseville Assembly of God	\$ 300
Family Fellowship of Mission	2,000
Mission Hills Christian Center	400
First Evangelical Center	1,000
Edwin Louis Cole Ministries	300
 Oil Royalties (Giebel Petroleum)	 \$ 6,125
Interest: Nellie Gail #1 (monthly interest payments)	\$ 72.08
Union Bank	781.50
Wells Fargo	697.00
Central Bank	2451.00
Leonard Flory	108.00
White House Credit Union	182.00
 Other: Vance Vantassell (legal fee earned prior to federal employment but paid in 1981)	 \$ 2,250
Christian Life Magazine (article)	\$ 150
Son, Bruce - wages:	
Paul Snider Pontiac	\$ 578
Environment Control	594

Gifts

No record of gifts was maintained except for 1981, after entering federal service.

My son, Tom, received a Christmas gift of golf clubs which I assume cost about \$500 from a long-time friend with whom we exchange gifts each year. The donor is Vance Vantassell, of Vantassell, Fornasero & Vantassell, Inc., 917 G Street, Sacramento, California 95814. We have given in past years at least one gift to Mr. Vantassell which exceeds by several times the amount involved here.

Roseville Assembly of God, Roseville, CA - Farewell Party -	\$200
Richard LeBaron, Sacramento, CA - birthday present	\$100
Paul Mao, San Francisco, CA - Watercolor	\$140

8. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, executory contracts and other future benefits which you expect to derive from current or previous business relationships, professional services and firm memberships, employers, clients and customers.

Answer - None, other than Strawberries & Stuff, which is a Subchapter S Corporation, owned by my immediate family, and a note my former law firm is paying off with Crocker Bank which was for a loan to purchase the partnership. (See C-1 and D-1)

9. Do you consent to provide the Committee with copies of your Federal income tax returns for the past three years? These documents will be made available only to Senators and a staff person designated by the Chairman and Ranking Member. They will not be available for public inspection.

Answer - Yes.

C. FUTURE EMPLOYMENT RELATIONSHIPS:

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer - I have severed all business connections already with the exception of (1) Strawberries & Stuff, which is a Subchapter S Corporation, owned by my immediate family; it was established to be an import/export business; some importing was done prior to my Federal employment.

(2) The oil investment with Giebel Petroleum is a limited partnership solely for investment. (3) The Nellie Gail #1 Associates was for the building and sale of a house which has been accomplished. Less than \$6,000 is owed to me by the purchaser.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer - I have no plans to pursue outside employment during Federal service except: (1) Strawberries & Stuff sales and consulting mainly in the area of arts and crafts; and (2) lectures, mainly religious, not associated with government, for which sometimes I receive reimbursement of expenses or honoraria.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer - No

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer - No

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer - Yes

D. POTENTIAL CONFLICTS OF INTEREST:

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer - My former law firm is paying off a note with Crocker Bank which was a loan to purchase the partnership. (See attached letter from Caldwell & Toms dated October 20, 1981.)

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer - None

3. Describe any business relationship, dealing or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer - None

4. Describe any activity during the past ten years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer - I have worked on legislation during my entire career until I entered Federal service. I represented the California District Attorneys' Association, the California Peace Officers' Association, the California State Sheriffs' Association, the State Bar of California, Governor Ronald Reagan and California Attorney General Evelle Younger. In private practice I never testified, but did advise clients on their testimony before the California Legislature, but nothing before the Congress.

Item D-4 continued:

My former law firm had clients with issues before Federal regulatory agencies. I never made an appearance on any of these cases, but did a lot of work on Pat Boone's Acne-Statins case which was in the Federal Trade Commission. We retained Santarelli and Gimer, 2033 M Street, N.W., Suite 700, Washington, D.C. 20036, for that purpose. I have had no contact with that Commission since entering Federal service.

While Deputy Counsel to the President, I did staff work on various legislative proposals, mostly involving criminal law. This did not involve any appearance before a legislative committee.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer - I will withdraw from any conflict of interest.

6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer - Yes

E. LEGAL MATTERS:

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer - No

2. Have you ever been investigated, arrested, or charged or held by any federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer - No

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer - None, except as counsel.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

Answer - No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer - None

AFFIDAVIT

I, Herbert Eugene Ellingwood, do swear that the information provided in this statement is, to be best of my knowledge, true and accurate.

3/18/82

(DATE)

Herbert E. Ellingwood

(NAME)

Subscribed and Sworn to before me this 18th day of March, 1982.

Robert E. Taylor

Notary Public
District of Columbia

My Commission Expires 4/14/86

June 20, 1985

Regarding the use of a government vehicle for travel to
and from work, that was discontinued in October 1984.

Herbert E. Ellingwood
HERBERT E. ELLINGWOOD

Ellingwood Escapes Unscathed From Controversies

By Erik Yoder

It's been hard to notice, but Herbert Ellingwood has in many ways been as important to federal employees during the Reagan administration as Donald Devine.

Now that Ellingwood appears to be on the way out, it seems a good time to consider whether he should be praised or buried for his three-year performance at the Merit Systems Protection Board. He is virtually certain to leave MSPB to lead the Justice Department's office of legal policy.

Heading the agency that decides appeals of personnel actions, Ellingwood has made as many decisions as Devine, some of them as important to federal employees.

In fact, Ellingwood may prove to have a longer-lasting effect than Devine, since an administration lives on through legal precedents set by its judicial appointees long after policy-makers like Devine are gone.

But Ellingwood has done it quietly. As much as Devine has relished the Sturm und drang of Washington, Ellingwood has shunned it.

That's not to say that Ellingwood, an old hand from Ronald Reagan's guber-

natorial terms in California, has not stepped on his share of landmines. But like his mentor, each time he managed to walk away unscathed, wondering what that noise was all about.

The first controversy occurred when MSPB's San Francisco regional office was ordered to hire Gretchen Thomas, a long-time Ellingwood friend, after top board officials came to believe — through an apparent "failure to communicate" — that Ellingwood wanted her hired. Thomas, who still holds the job, was criticized for her lack of experience.

Then there was the revelation that Ellingwood was taking advantage of a short-term loophole in a comptroller general decision and using a government car and driver for transportation between home and work.

And then it came out that Ellingwood was involved in — although to a debatable degree — an effort to place fundamentalist Christians in federal jobs.

Only the job bank issue may cause him lasting grief. The People for the American Way, led by television producer Norman Lear, will oppose Ellingwood's expected nomination to head the office of legal policy at Justice because that office helps choose judicial nominees.

All three situations riled House civil service subcommittee chairwoman Patricia Schroeder, D-Colo., but each time the clash was rather cordial and brief. There was no Devine-style smoke blowing from either side and little apparent lasting animosity.

Perhaps it's because Ellingwood, with his born-again serenity and his Cabbage Patch Doll countenance, has, to use Conan Doyle's term, a kind of "peering benevolence" about him. What other agency chief can you name whose decorative theme in his personal office is the strawberry? Or who consented to a "cooking with Herb" article in a newspaper's weekly magazine section? Or who worked in a soup kitchen during National Volunteer Week?

But Ellingwood, like so many Reagan appointees who have stepped on or over ethical lines, also was protected by unwavering support from the White House.

Unlike many of those colleagues, though, Ellingwood gets high marks as a manager. He has met the administration's office-space reduction goals, cleared out a huge backlog of cases — including the unprecedented 11,000 from air traffic controllers fired for striking — and has speeded up the board's decision-making.

Whether those decisions are for

good or ill is subject to debate. In the last three years MSPB has cranked out a steady hum of pro-management rulings and has set some precedents that unquestionably go against employee interests.

For example, the board has loosened the restrictions on personnel action for off-duty misconduct, said that agencies need not try to find other jobs for employees who become handicapped, and made it easier to fire administrative law judges for low productivity.

Has MSPB under Ellingwood been pro-management? Unquestionably, if you go by statistics. Was it that way before he arrived and will it be so after he leaves? Yes, and probably yes.

The real question is whether Ellingwood's MSPB has been too pro-management. The statistics are little help there. Under an admittedly limited scope of review, the Federal Circuit has upheld probably 95 percent of MSPB's rulings.

It's easy enough to find employees or lawyers who lost appeals to say Ellingwood's board is biased toward management. You could also find people who will say management wins because the 1978 Civil Service Reform Act made it easy to win and that agencies are now becoming adept at using the law.

My only judgment about Herbert Ellingwood as MSPB chief is that federal employees could have done a lot worse.

WILLIAM V. ROTH, JR., DEL., CHAIRMAN
CHARLES N. PERCY, ILL.
TED STEVENS, ALASKA
CHARLES MC C. MATHIAS, JR., MD.
JOHN C. DANFORTH, MO.
WILLIAM S. COHEN, MAINE
DAVID DURENBERGER, MINN.
MACK MATTINGLY, GA.
WARREN B. RUDMAN, N.H.
THOMAS F. EAGLETON, MO.
HENRY M. JACKSON, WASH.
LAWTON CHILES, FLA.
SAM NUNY, GA.
JOHN GLENN, OHIO
JIM SASSER, TENN.
DAVID FRYOR, ARK.
CARL LEVIN, MICH.

JOAN M. MCENTEE, STAFF DIRECTOR
IRA S. SHAPIRO, MINORITY STAFF DIRECTOR

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United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, D.C. 20510

April 8, 1982

Mr. Herbert E. Ellingwood, Chairman
U.S. Merit Systems Protection Board
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

Dear Mr. Ellingwood:

The Committee has received your responses to the biographical and financial questionnaire. It appears that the information is complete, and I sincerely appreciate your thoroughness.

You will find enclosed a set of pre-hearing questions. Your responses to these questions will become a part of the permanent hearing record. And, they will assist the Members focusing their questions during the hearing.

As you already know, the hearing has been set for Wednesday, April 21 at 2 p.m. I would appreciate receiving your responses to the pre-hearing questions and any prepared statement which you may wish to make 24 hours before that time. Please submit 50 copies of both your responses to the questions and any prepared testimony to Margaret Hecht in room 3306 DSC.

I am looking forward to hearing from you.

Sincerely,



William V. Roth, Jr.
Chairman

WVR/df

The Nomination of Herbert Ellingwood to be
Chairman of the Merit Systems Protection Board

PRE-HEARING QUESTIONS

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

Question 1

Is there any issue currently under consideration by the Merit Systems Protection Board from which you may have to disqualify yourself? If so, please explain.

Question 2

How were you selected to be nominated to serve as the Chairman of the Merit Systems Protection Board? Were any conditions, expressed or implied, attached to your nomination?

Question 3

Have you made any specific commitments with respect to the basic policies and philosophy you will seek to implement as the Chairman of the MSPB? If so, please describe these commitments.

Question 4

Why did you take this appointment to be Chairman of the Merit Systems Protection Board?

Question 5

Why do you feel that you are particularly well qualified to serve in this position?

II. THE MERIT SYSTEMS PROTECTION BOARD

Question 1

What is the role of the Merit Systems Protection Board?

Question 2

What are the MSPB's most important functions?

Question 3

What do you feel are the most important functions of the position to which you have been nominated?

Question 4

How do you see the relationship between the MSPB and a) the Office of Personnel Management b) the Federal Labor Relations Authority and c) the Office of the Special Counsel of MSPB?

Question 5

How do you see the relationship and responsibilities of the MSPB to a) the President b) the Congress and c) the executive agencies?

Question 6

How has the caseload of the MSPB been affected by the recent reductions in force? Do you anticipate a need for additional staff in the near future?

Question 7

It has been discussed that the MSPB takes more time than necessary on many of its cases. Do you have any ideas on how the turnover time on cases could be improved?

III. THE CIVIL SERVICE REFORM ACT

Question 1

What do you feel are the most important principles of the Civil Service Reform Act?

Question 2

Do you feel that the Civil Service Reform Act offers too much, too little, or the appropriate amount of protection for the federal employee?

Question 3

As you know, MSPB has recently completed a study which showed that a high percentage of the federal employees surveyed have seen cases of retaliation against whistleblowers. In light of this report, do you feel that the Civil Service Reform Act has effectively protected "whistleblowers" from retaliatory action?

Question 4

There has recently been discussion of the politicization of the Senior Executive Service. Do you believe that those in the SES are properly protected under the Civil Service Reform Act?

Question 5

Do you feel that any particular changes in the Act would be helpful toward carrying out the goals of the legislation?

IV. RELATIONS WITH CONGRESS

Question 1

Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of the Congress if you are confirmed?

Questions For Herbert Ellingwood From Senator David Pryor

1. You have served as Legal Affairs Secretary to former Governor Reagan and most recently as Deputy Counsel to the President in the Reagan White House. The Merit Systems Protection Board was created by the Civil Service Reform Act of 1978 as an independent, quasi-judicial agency with responsibility for enforcing merit principles throughout the federal government. How do you view the relationship between the MSPB and the President particularly in light of your previous working relations with the President?

I fully recognize that the legislative history makes it clear that Congress intended the Board to function in an independent manner to protect the merit systems. I also believe that the Congress succeeded in creating a structure for the Board which insulates it from inappropriate outside influences. At the same time, I believe we can work with President Reagan and his appointees to further a civil service system governed by merit principles.

From a personal standpoint my relationship with the President has not had, nor do I anticipate it having, any adverse effect on my performance as Board Chairman.

2. Would you please summarize the major actions which you have taken as the acting Chairman of the MSPB since your appointment in December 1981?

I have believed from the outset that for the Board to maintain its credibility among civil servants, it must demonstrate a record of adjudicating appeals in a timely fashion while still guaranteeing consistent fairness in the process. To ensure such a system, I immediately directed a series of reviews of the Board's appeals process in order to determine how it might be streamlined. I believe the results of these studies will produce a variety of changes which, if implemented, will significantly simplify the present system. Naturally, I will be happy to furnish the Committee with our recommendations as these studies are completed.

In addition, I have devoted considerable time and energy to familiarizing the Congress and the Administration with the Board's severe budget needs. Even before I was appointed as Board Chairman, the Board was operating under budget conditions which were at best uncertain. Since that time, the situation has become critical--though we are hopeful that supplemental funding is imminent. Because it was obvious to me that the Board could not perform its mission if its fiscal needs were not met, I tried to do what I could to improve the Board's chances of obtaining adequate funding.

3. Please explain what your major priorities are for providing for the effective administration of the Merit Systems Protection Board?

The two major priorities I have established relate to improved professionalism and morale of Board employees.

I believe the Board's credibility depends mainly on the degree of professionalism associated with its work product. While this may be a laudable goal at any agency, the quasi-adjudicatory nature of the Board's functions demands it. Therefore, I have insisted from the outset that all employees exhibit a level of professionalism which corresponds to their assigned duties.

At the same time, I am sensitive to the extreme importance of good morale in a successful organization. Therefore, I have attempted to foster an atmosphere among Board employees which promotes the common goal of operating a successful organization.

4. The relationship between the MSPB and the Office of Special Counsel has been the source of some controversy in the past. How do you view this relationship and what steps have you taken to achieve a higher level of cooperation between the MSPB and the Office of Special Counsel?

Congress intended the Office of the Special Counsel to be a part of the Merit Systems Protection Board but to perform its investigative and prosecutorial duties in a strictly autonomous manner. I intend to strive to preserve that autonomy. At the same time, however, I believe that the friction that once existed between the Board and the Special Counsel was unnecessary and counterproductive. Opportunities exist in which a good working relationship in areas such as administration and personnel management can yield benefits to both entities. Toward that end, Special Counsel Kozinski and I have been meeting weekly in an effort to maintain and improve such a relationship. We now enjoy a cooperative, yet arms-length, relationship.

5. In your pre-hearing questions you were asked to discuss the functions of the Merit Systems Protection Board. You responded that one major function of the Board is to "provide the agencies with the necessary flexibility to discipline and/or remove employees who do not perform their jobs." Would you please elaborate on this particular point?

One of the goals of the Civil Service Reform Act was to enable management to manage effectively but in a manner consistent with merit system principles and free from prohibited personnel practices. In this regard, I view the Board's role as an impartial adjudicator charged with the duty of protecting both interests. While I noted that these are two of the four most important functions of the Board, they should not be viewed independently of each other. The interrelationship of the two was carefully crafted in the Act, and both are vitally important to the successful implementation of the Act.



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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B-214210

June 6, 1984

The Honorable Patricia Schroeder
Chairwoman, Subcommittee on Civil
Service
Committee on Post Office and
Civil Service
House of Representatives

Dear Madam Chairwoman:

Subject: Inquiry Into Allegations Against the Chairman,
Merit Systems Protection Board (GAO/AFMD-84-65)

Pursuant to your request of January 26, 1984, we reviewed the anonymous allegations you received regarding travel and leave activities of Herbert E. Ellingwood, Chairman, Merit Systems Protection Board, (MSPB). We also included in our review an allegation received over the GAO hotline concerning Mr. Ellingwood's use of a vehicle for home-to-work transportation. Our review covered the period December 18, 1981, when Mr. Ellingwood became Chairman, through February 23, 1984. We reviewed the Chairman's travel orders and travel vouchers, and conducted numerous interviews with MSPB officials.

Our work disclosed the following.

- During the time period reviewed the Chairman received thirty honorariums for speeches made to religious groups. Receipt of seven honorariums coincided with official travel, but in each instance, the speeches were made while he was on his personal time or on a leave of absence. The Chairman did not receive any honorariums for speeches made while conducting official business.
- The Chairman made five trips to California while on official travel; on all five of the trips he conducted official government business.
- The Chairman has made no attempt to cover-up the nature of his travel.

(911576)

- The MSPB's travel expenses for a January 1984 management conference could have been about \$9,900 less if the conference had been held in Washington, D.C., instead of San Francisco, California. The MSPB's rationale for the site selected is given below.
- The Chairman's trips to China were for personal reasons and at no cost to the government.
- The Chairman uses a chauffeured government vehicle for home-to-work transportation notwithstanding the provisions of 31 U.S.C. 1344, which establish such transportation as non-official. However, under a GAO decision dated June 3, 1983, the Chairman can continue such use until the end of the current session of Congress.
- MSPB appropriations were augmented when the New York Life Insurance Company paid the Chairman's lodging costs while he was visiting MSPB's New York Regional Office. Upon learning of a possible augmentation problem, the Chairman reimbursed the insurance company for the entire lodging costs.

The details of our review follow.

HONORARIUMS RECEIVED

It was alleged that the Chairman misused travel monies by taking official trips for the primary purpose of making speeches and receiving honorariums. We found that the Chairman took nineteen official trips where travel orders and travel vouchers were prepared during the period December 18, 1981, through February 23, 1984.^{1/} We were provided justification for each of the trips. On five of the trips, the Chairman received seven honorariums for speeches made to religious organizations (see encl. I). However, each speech was made while the Chairman was on a leave of absence or during his personal time. (An officer or employee of an agency may accept honorariums while on personal business as long as each honorarium does not exceed \$2,000, excluding expenses; and as long as the activity does not raise a conflict of interest.)

In addition, the Chairman received twenty-three other honorariums for similar speeches which were not made in conjunction with official travel. Again we determined that all the speeches were given during his personal time, or while on a leave of absence (see encl. II). Finally, we determined that the Chairman

^{1/}The Chairman determined in August 1983 that a June 1982 trip to Chicago was more personal than business, and repaid the government the \$280.29 he had been reimbursed for this trip.

made similar speeches on nine other occasions and while he did not receive honorariums, he was reimbursed for lodging and/or transportation expenses (see encl. III).

As a political appointee, the Chairman is exempt from the Annual and Sick Leave Act (5 U.S.C. 6301 (2)(x)); he is on call at all times and works whatever hours are necessary to meet his official responsibilities. The Chairman enjoys complete freedom to absent himself from duty as he sees fit. Thus, while on official travel the Chairman may determine hours for official work and for personal business that meet his needs. Our review showed that during calendar year 1982, the Chairman took a leave of absence on forty-nine workdays. In calendar year 1983 he took a leave of absence on twenty-nine workdays and during the period January 1, 1984 to February 23, 1984, he took a leave of absence on nine workdays.

TRIPS MADE TO CALIFORNIA
WHILE ON OFFICIAL TRAVEL

It was alleged that the Chairman traveled to California several times to conduct personal business at government expense, and that he was spending "many Mondays" in California conducting prayer meetings. Since the allegation was made anonymously, we could not follow it up to determine the significance of the involvement of Mondays in the allegation. Our review showed that the Chairman visited California on five of the nineteen occasions while on official travel and that three of the trips included Mondays.^{2/}

According to MSPB officials, the five trips to California were necessary because of conditions in the San Francisco Regional Office. The former director of the San Francisco Regional Office resigned shortly before the Chairman took office, in December 1981, and a number of acting regional directors had been directing office operations. MSPB cases were not being processed in a timely manner and there were difficulties with the performances of both the former and current administrative officers. MSPB provided the following descriptions of the Chairman's business agendas during each trip:

March 1982	--conferred with Acting Regional Director.
April 1982	--met with new Regional Director and staff, and with General Services Administration regarding office space problems.

^{2/}A travel voucher for a June 1982 trip to Chicago mentions another trip to California that the Chairman made on his own time and at his own expense. He received two honorariums while in California on this trip.

- January 1983 --discussed case tracking, case backlog, and office space issues.
- September 1983 --performed a management review of the office with the Managing Director and Executive Assistant.
- January 1984 --attended MSPB management seminar in San Francisco, in conjunction with the regional directors meeting.

ALLEGED COVER-UP OF TRAVEL

It was alleged that the Chairman attempted to cover-up the nature of his trips after congressional investigators inquired about his travel in April or May 1983. We contacted the congressional office involved and found that the office had received allegations involving the Chairman's travel activities. The allegations were similar to those received by GAO. The congressional staff said that their review did not disclose any irregularities in the Chairman's travel. Our review did not disclose any attempts to cover-up the nature of the Chairman's trips.

REGIONAL DIRECTORS MEETING/MANAGEMENT CONFERENCE HELD IN SAN FRANCISCO, CALIFORNIA

It was alleged that the Board spent thousands of dollars to send more than a dozen headquarters officials to California for a management conference when the same meeting could have been held in Washington, D.C., at little or no cost. We found that the MSPB did hold a Regional Directors Management Conference in San Francisco, California, on January 26 and 27, 1984. Twenty-seven employees attended the conference; sixteen were from Washington, D.C., and eleven were from each of MSPB's eleven regional offices.

MSPB officials provided the following explanation and documentation for having the conference in San Francisco:

- The past pattern was to bring regional participants to the Washington, D.C. area for the conferences. (Reston, Virginia, in August 1982; Leesburg, Virginia in December 1982; and Emmitsburg, Maryland in October 1983). The MSPB scheduled this activity in San Francisco because they wanted to hold some of the conferences in regional offices. They scheduled San Francisco for January 1984, Boston for May 1984 and Chicago for August 1984. However, the proposed Boston conference was held in Washington, D.C. and the Chicago conference has been cancelled.

--The reason for the sixteen headquarters participants was because the San Francisco regional directors' conference was expanded to include headquarters managers who had attended a planning workshop held in conjunction with the October 1983 Emmitsburg regional directors meeting. Documentation provided by the MSPB showed that the workshop was not completed and was continued in San Francisco to provide regional directors an opportunity to have input into plans and goals for the next twelve to eighteen months.

MSPB spent \$13,520 on travel expenses to hold the conference in San Francisco, California. Using the General Service Administration's transportation and per diem rates, we determined that if the conference had been held in Washington, D.C., the travel cost would have been about \$3,640, or about \$9,900 less than the travel expenses for the San Francisco conference.

TRIPS TO CHINA

It was alleged that the Chairman may have taken personal trips to China at government expense. We found that the Chairman made two personal trips to China, one from October 30, 1982, to November 18, 1982, and the second from February 8, 1984, to February 19, 1984. We determined that the Chairman took a leave of absence on those dates and that no travel orders or travel vouchers were processed for either trip. The government, therefore, did not incur any expenses.

MISUSE OF GOVERNMENT VEHICLE

It was alleged that the Chairman has a government driver pick him up at his home in the morning and take him home from work at night in a government vehicle.

We found that the Chairman does use a government driver and vehicle for home-to-work transportation and that this is prohibited by 31 U.S.C. 1344. However, the Chairman is within the purview of a GAO Comptroller General decision (B-210555), dated June 3, 1983, entitled, "Use of Government Vehicles for Transportation Between Home and Work," which notes that there is some uncertainty throughout the government about who may receive home-to-work transportation in spite of the statutory prohibition against using such transportation. The decision states in part:

"Because so many agencies have relied on apparent acquiescence by the Congress during the appropriations process when funds for passenger vehicles were appropriated without imposing any limits on an agency's discretion to determine the scope of "official business,"

and because dicta in GAO's own decisions may have contributed to the impression that use of cars for home-to-work transportation was a matter of agency discretion, GAO does not think it appropriate to seek recovery for past misuse of vehicles, (except for those few agencies whose use of vehicles was restricted by specific Congressional enactments). This decision is intended to apply prospectively only. Moreover, [in order to allow the Congress time to review the matter] GAO will not question such continued use of vehicles to transport heads of non-cabinet agencies and the respective seconds-in-command of both cabinet and non-cabinet agencies until the close of this Congress."

GAO considers the Chairman to be an agency head. Therefore, there is no need to institute recoupment action against the Chairman prior to the close of the current Congress. However, this "moratorium" on recoupment for agency heads and their respective principal deputies does not mean that the GAO believes such transportation is proper under the present law.

AUGMENTATION OF MSPB's APPROPRIATIONS

During a March 23-25, 1982, business trip to MSPB's New York Regional Office the Chairman, as part of his official duties, delivered a speech on March 24, 1982, a Wednesday morning, before a group of New York Life Insurance Company executives. New York Life Insurance Company paid the Chairman's lodging costs of \$310.25 for March 23 and 24. The Chairman did not receive any additional monies. Generally, donations from private sources, either in cash or in kind, for official travel to conduct government business constitutes an augmentation, unless the employing agency has statutory authority to accept gifts. MSPB does not have that authority. We concluded that the payment by the New York Life Insurance Company was an improper augmentation of MSPB's appropriations.

Specifically, the MSPB's appropriations were augmented by the amount that the agency was obligated to pay for the Chairman's March 23 and 24, 1982, expenses. For these days the government was authorized to pay for the Chairman's actual subsistence expenses while in New York, including meals and lodging costs, not to exceed \$75 per day. For the two days the Chairman claimed and was reimbursed \$25 in meal expenses, but claimed nothing for lodgings. Since the MSPB must pay for the official travel of its Chairman, these hotel costs should not have been paid by the New York Life Insurance Company and their paying the hotel bill had the effect of augmenting MSPB's appropriation by the amount the

Chairman could have claimed as reimbursement or \$125 [(2 x \$75) - \$25]. However, on April 24, 1984, the Chairman sent a check for \$310.25 to the New York Life Insurance Company with a letter explaining that the company had inadvertently augmented MSPB's budget allocation. Since the Chairman returned the full amount paid by the New York Life Insurance Company, the appropriation augmentation no longer exists and he now can make a claim against the government under 5 U.S.C. 5702, for the actual subsistence expenses totaling \$125. Because of travel expense limitations imposed on travel by federal employees, the Chairman must bear the excess cost of his lodgings in the amount of \$185.25 (\$310.25 - \$125).

We hope that this letter adequately addresses the allegations you received regarding Chairman Ellingwood. The contents of this letter were discussed with Chairman Ellingwood who concurred with these findings.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report for 10 days. At that time we will send copies to the Chairman, MSPB; Director of the Office of Management and Budget, and appropriate congressional committees; and make copies available to others upon request.

Sincerely yours,

Arthur R. Goldbeck for

Frederick D. Wolf
Director

Enclosures - 3

OFFICIAL TRIPS TAKEN BY THE CHAIRMAN AND EXPENSES CLAIMED

<u>Period of travel</u>	<u>Location of business^a</u>	<u>Meals and other expenses</u>	<u>Lodging expenses</u>	<u>Transportation expenses</u>	<u>Total cost to government</u>
2/18/82 - 2/18/82	Philidelphia Regional Office	\$ 17.25	none	\$ 90.00	\$107.25
3/5/82 - 3/7/82	San Francisco and Denver Regional Offices	102.14	none	340.00	442.14
3/23/82 - 3/25/82	New York Regional Office	70.25	none	63.00	133.25
4/23/82 - 5/2/82	San Francisco and Seattle Regional Offices	31.40	none	424.00	455.40
5/18/82 - 5/21/82	St. Louis and Dallas Regional Offices	19.35	75.00	361.00	455.35
∞ 6/3/82 - 6/9/82*	Chicago Regional Office (Stopped in San Francisco on personal business before going to Chicago)	7.79	54.50	218.00	280.29 ^b
6/15/82 - 6/15/82	Reston, Virginia to attend agency General Counsel Conference	6.00	none	6.00	12.00
8/8/82 - 8/10/82	Atlanta Regional Office	75.25	69.50	206.00	350.75
9/9/82 - 9/10/82	Boston Regional Office	5.23	69.77	101.00	176.00
12/9/82 - 12/10/82	New York Regional Office	42.63	65.87	80.00	188.50

^a All travel originated in Washington , D.C.

^b Mr. Ellingwood was reimbursed \$280.29 for the Chicago portion of this trip on November 30, 1982. He repaid the whole amount on August 5, 1983, because he believed the trip was more personal than business.

* Honorarium(s) received.

<u>Period of travel</u>	<u>Location of business</u>	<u>Meals and other expenses</u>	<u>Lodging expenses</u>	<u>Transportation expenses</u>	<u>Total cost to government</u>
1/13/83 - 1/18/83*	San Francisco and Chicago Regional Offices	59.40	none	none	59.40 ^c
4/15/83 - 4/18/83	Denver Regional Office	18.30	none	249.00	267.30
6/15/83 - 6/16/83	Harpers Ferry, West Virginia to attend OPM Conference	19.55	30.45	none	50.00
8/27/83 - 8/30/83*	Chicago Regional Office	38.18	56.73	164.00	258.91
9/10/83 - 9/14/83	San Francisco and Seattle Regional Offices	183.31	53.70	388.00	625.01
9/15/83 - 9/16/83	Philadelphia Regional Office	5.25	none	118.00	123.25
12/9/83 - 12/9/83	Boston Regional Office	11.00	none	142.00	153.00
1/7/84 - 1/9/84*	Atlanta Regional Office	25.25	38.88	178.00	242.13
1/25/84 - 1/28/84*	San Francisco Management Planning Seminar and Regional Directors meeting	34.00	none	338.00	372.00

^c On this trip Mr. Ellingwood stated he was on personal business, however, while in the two cities he visited the two regional offices. He claimed expenses associated with the visits. GAO determined that he is eligible to claim the expenses since they were valid expenses and business related.

* Honorarium(s) received.

LISTING OF HONORARIUMS

<u>Date</u>	<u>Location</u>	<u>Honorariums*</u>
May 29, 1982	Deptford, New Jersey	\$ 456
June 3, 1982	Sacramento, California	950**
June 6, 1982	Sacramento, California	500**
June 20, 1982	Roswell, New Mexico	1,500
October 13, 1982	Roseville, California	126
October 22, 1982	Northridge, California	451
December 3, 1982	Tulsa, Oklahoma	300
December 31, 1982	Laguna Hills, California	496
December 31, 1982	Laguna Hills, California	200
January 8, 1983	Naples, Florida	200
January 13, 1983	Turlock, California	500**
January 17, 1983	Fridley, Minnesota	502**
January 29, 1983	Houston, Texas	427
January 29, 1983	Seabrook, Texas	300
March 25, 1983	Missoula, Montana	200
April 10, 1983	Lanham, Maryland	25
June 5, 1983	Sacramento, California	1,000
July 3, 1983	Tulsa, Oklahoma	500
July 10, 1983	Honolulu, Hawaii	546
August 27, 1983	Fort Worth, Texas	1,000**
November 3, 1983	Naples, Florida	21
November 16, 1983	Los Gatos, California	436
December 2, 1983	Laguna Hills, California	150
December 2, 1983	Laguna Hills, California	200
December 4, 1983	Watsonville, California	100
December 4, 1983	Aptos, California	500
January 8, 1984	Jacksonville, Florida	2,000**
January 23, 1984	Pocomoke, Maryland	250
January 28, 1984	Novato, California	550**
February 11, 1984	Kaohsiung, Taiwan	2,000
Total		<u>\$16,386</u>

* An honorarium is a payment of money or anything of value received by an officer or employee of the federal government, if it is accepted as consideration for an appearance, speech, or article. It does not include payment for or provision of actual travel and subsistence, including transportation accommodations, and meals.

**Honorarium was received while the Chairman was on an official trip. However, the fees were received for weekend speeches or speeches made during a leave of absence.

OCCASIONS WHERE ONLY EXPENSES
WERE PAID BY PRIVATE SOURCES

<u>Date</u>	<u>Location</u>	<u>Lodging and/or transportation expenses</u>
March 19-21, 1982	Los Angeles, California (Joint Chinese University Association of Southern California)	\$ 650
June 19, 1982	Denver, Colorado (FGBMFI)*	650
July 3-9, 1982	Costa Mesa, California (FGBMFI)	500
July 27-28, 1982	Springfield, Missouri (Assemblies of God)	500
October 30- November 18, 1982	Trip to China**	2,600
March 29, 1983	Roswell, New Mexico (FGBMFI)	774
June 2, 1983	Auburn, California Forest Lake Christian School	399
August 17, 1983	Santa Ana, California Trinity Broadcasting Network	586
February 23, 1984	San Jose, Costa Rica Fellowship Foundation	633

* Full Gospel Business Men's Fellowship International

** Mr. Ellingwood represented the FGBMFI while overseas as their International Director.

THE CHAIRMAN



U.S. MERIT SYSTEMS PROTECTION BOARD
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

April 20, 1982

Honorable William V. Roth
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

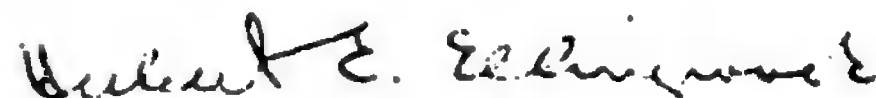
Dear Mr. Chairman:

I am pleased to submit my responses to the pre-hearing questions which you forwarded to me on April 8, 1982.

I have decided not to begin with a prepared statement.

I look forward to my appearance before your Committee at 2:00 p.m. on April 21, 1982.

Sincerely,


Herbert E. Ellingwood

PRE-HEARING QUESTIONS

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

Question 1

Is there any issue currently under consideration by the Merit Systems Protection Board from which you may have to disqualify yourself? If so, please explain.

No.

Question 2

How were you selected to be nominated to serve as the Chairman of the Merit Systems Protection Board? Were any conditions expressed or implied, attached to your nomination?

I was Deputy Counsel to the President. No reasons were given for my selection and no conditions were attached.

Question 3

Have you made any specific commitments with respect to the basic policies and philosophy you will seek to implement as the Chairman of the MSPB? If so, please describe these commitments.

My only commitment was to the President--that I would operate the Board on a strictly professional basis and ensure the impartial forum which the law envisions. I have made no other commitments, nor have I been asked for any.

Question 4

Why did you take this appointment to be Chairman of the Merit Systems Protection Board?

Government today is undergoing major changes as we are faced with diminishing resources. This, of course, means that the institutions we have known must make adjustments to continue to meet their statutory responsibilities. The real challenge is to ensure that any changes be made fairly and impartially. I recognized that this Board is the institution responsible for ensuring such fairness in employer/employee relationships. I embraced the opportunity to be a part of that process.

Question 5

Why do you feel that you are particularly well qualified to serve in this position?

I feel that more than twenty years in the practice of law, mostly in the government, provides me with the necessary experience. Additionally, I believe that I can bring to the Board a fresh insight to its challenges.

II. THE MERIT SYSTEMS PROTECTION BOARD

Question 1

What is the role of the Merit Systems Protection Board?

I consider the Board's primary role to be one of maintaining, through its authority under the CSRA, the integrity of the Federal personnel system by balancing the objectives of management with statutory protections provided to the employees who accomplish those objectives. It must, at the same time, ensure fairness and encourage efficiency in the Federal work force.

Question 2

What are the MSPB's most important functions?

Simply put, I believe the Board's most important functions are to:

- a. Protect the due process rights of employees and ensure that they are not subjected to prohibited personnel practices;
- b. Provide the agencies with the necessary flexibility to discipline and/or remove employees who do not perform their jobs;
- c. Guarantee both employees and agencies that appeals will be processed in an expeditious and impartial manner; and
- d. Play an active role in protecting merit systems and merit principles from political and administrative abuse.

Question 3

What do you feel are the most important functions of the position to which you have been nominated?

The Chairmanship of the Board demands two major qualifications: First, as in most agencies, the ability to provide effective leadership is required. Equally important however, is the ability to produce a high quality of legal work which is essential in maintaining the integrity of the Board as an impartial adjudicatory body.

Question 4

How do you see the relationship between the MSPB and a) the Office of Personnel Management b) the Federal Labor Relations Authority and c) the Office of Special Counsel of MSPB?

a. It is important to recognize the distinctly different roles in the CSRA assigned to the Board and OPM. OPM is responsible for advising and assisting the President in the development of Federal personnel management policies and practices and for providing personnel management leadership to all Federal agencies. In contrast, the Board is an independent agency that is responsible for adjudicating cases arising under OPM policies and procedures, as well as other provisions of the Act. Furthermore, the Board conducts studies of the merit systems, examines significant OPM activities, and reviews the legality of OPM rules and regulations.

Because of these distinctly different roles, it is essential that the two perform our respective roles and duties in an autonomous fashion. However, the impact of each on the other cannot be ignored. It is imperative that the channels of communication be maintained without sacrificing the necessary autonomy, and with a recognition of the differing statutory assignments which we have.

b. While the Federal Labor Relations Authority's functions are somewhat distinct from the Board's own responsibilities, a cooperative relationship needs to be maintained so that in situations where duties may overlap (such as allegations of prohibited personnel practices heard by the Board which also contain allegations of unfair labor practices normally considered by the FLRA) confusion to our constituents is minimized.

c. The legislative history of the CSRA reveals Congress' intention to include the Office of Special Counsel as part of the Board but for the Special Counsel to perform investigative and prosecutorial duties in an independent manner.

The Act assigned differing responsibilities to the Board and the Special Counsel because of their respective adjudicatory and prosecutorial roles. This requires that in substantive areas an arms-length relationship be preserved. However, other areas such as administration and personnel management offer opportunities for mutual efforts without compromising the Special Counsel's functional autonomy which must be preserved.

Question 5

How do you see the relationship and responsibilities of the MSPB to a) the President b) the Congress and c) the executive agencies?

a. I believe that the Board's relationship with the President should be one of cooperation in working to achieve a civil service system which is governed by merit principles and is responsive to the needs of the American people. President Reagan has been fully supportive of our needs in accomplishing this goal.

b. Congress gave the Board its mandate, and in the fulfillment of our duties we share common goals with the Congress: protecting the merit system from political abuses, maintaining faith and confidence in the civil service system, and ensuring the effective operation of the merit principles in practice. It is our duty to work with the Congress in any way in which we can, consonant with these basic principles, to achieve these goals.

c. As the Board processes appeals from Federal agencies promptly and fairly, we are meeting our obligation to those agencies. This allows Federal managers to improve the productivity and efficiency of the Federal work force while safeguarding the legitimate rights of employees, as the law envisions. At the same time, however, the Board expects other agencies to cooperate in following the Board's procedures, including the meeting of all time deadlines required for the expeditious handling of appeals and other actions. Congress gave the Board appropriate enforcement powers, which we have and will continue to exercise, as circumstances require. These include the use of subpoenas to develop necessary evidence, the issuance of stays to bar prohibited personnel practices, and the firm enforcement of Board orders.

Question 6

How has the caseload of the MSPB been affected by the recent reductions in force? Do you anticipate a need for additional staff in the near future?

The impact of RIF appeals on the Board's caseload is best illustrated by the attachment I have provided. The Board anticipates hiring a significant number of new staff, particularly in our regional offices to handle this increase in RIF appeals as well as the huge influx of appeals by former air traffic controllers. Of course, the hiring is contingent upon the enactment of the Board's FY'82 supplemental request now pending before the House in H.R. 5922. After the disposition of these cases the Board hopes to handle normal increases without hiring additional staff.

Question 7

It has been discussed that the MSPB takes more time than necessary on many of its cases. Do you have any ideas on how the turnover time on cases could be improved?

Let me preface this response by noting a very important distinction which must be made. Appeals are first filed in our 11 regional offices around the country. After an opportunity for appropriate hearings, initial decisions are issued which, if not appealed to the full Board in Washington, D.C., or not reopened by the Board on its own motion, become the final decisions of the Board. I am pleased to report that we have succeeded in meeting a self-imposed deadline of 120 days--from filing to decision--in 98% of all cases filed, a vast improvement over the years of delay which often characterized the old Civil Service Commission.

Where the Board has seen delays has more often been in those cases appealed to the Board itself from regional office decisions. In the Board's first 3 years there have been many complex and difficult legal issues which had to be decided--cases of first impression which have had important precedential value. These cases, by their nature, took much longer than most, and often other cases which would turn on the issues decided in these lead decisions were held up as a result.

Further, the sheer numbers of these cases have impeded our efforts to deal with them as promptly as we would like. For nearly one-half of the Board's 3 year existence there have been only 2 Board members. At the same time the size of our staff has diminished because of our severe budget situation and we have been unable to replace many of them.

This is not to say that there is not room for improvement. One of my first acts as Chairman was to initiate efforts to streamline the procedures I found in place, with a view toward further decreasing the processing time without diminishing the fairness of the system. I believe we are making headway.

III. THE CIVIL SERVICE REFORM ACT

Question 1

What do you feel are the most important principles of the Civil Service Reform Act?

I believe the most important principles of the Civil Service Reform Act are the ones which promote fairness, efficiency of the workforce and an increased ability to manage effectively. Without these principles the objectives of a productive work force and an improved quality of public service cannot be attained.

Question 2

Do you feel that the Civil Service Reform Act offers too much, too little, or the appropriate amount of protection for the Federal employee?

I believe the Civil Service Reform Act is a sound platform from which it is reasonable to expect that fair treatment and adequate protection can be provided to federal employees so long as its provisions are properly administered. I believe that further refinements can be made which would benefit employees' management and productivity.

Question 3

As you know, MSPB has recently completed a study which showed that a high percentage of the Federal employees surveyed have seen cases of retaliation against whistleblowers. In light of this report, do you feel that the Civil Service Reform Act has effectively protected "whistleblowers" from retaliatory action?

As you know, the Board can deal with whistleblower cases only when they are brought before it, since the whistleblower protections initially fall within the ambit of the Special Counsel. I do believe, however, that the CSRA created useful mechanisms to deal with the problem. But, as the Deputy Special Counsel recently noted in testimony before the House Appropriations Committee, more than half the potentially affected Federal employees simply don't know about the Special Counsel. The Special Counsel is a Member of the President's Council on Integrity and Efficiency, and he has told me that this Council is giving a significant amount of attention to this problem. It is also essential that other agency heads heighten the awareness among employees of their agencies' reporting channels, how they work, and their rights under the law. I believe the key is the spirit and attitude set at the top.

Question 4

There has recently been discussion of the politicization of the Senior Executive Service. Do you believe that those in the SES are properly protected under the Civil Service Reform Act?

Recent studies in this area by the Board's Office of Merit Systems Review and Studies and the General Accounting Office have not shown significant evidence that political manipulation has taken place in the Senior Executive Service. From an adjudicatory standpoint, only one member of the SES has appealed to the Board under the protections which were provided by the Civil Service Reform Act more than 3 years ago. In that instance, the Board determined that sufficient evidence had not been presented which would warrant the Board's staying the

removal sought. Therefore, I believe it is fair to conclude that proper protections for those Federal employees in the SES do exist.

Question 5

Do you feel that any particular changes in the Act would be helpful toward carrying out the goals of the legislation?

The Board is now conducting a comprehensive analysis from which we hope may come some recommendations for legislative changes which could enhance the effectiveness of the Act. We will, of course, provide the Committee with those recommendations.

IV. RELATIONS WITH CONGRESS

Question 1

Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of the Congress if you are confirmed?

Yes.

WORKLOAD COMPARISON FIGURES

CASES PENDING AS OF:	4/18/81	4/17/82
Reductions-In-Force		
Nationwide	92	1,166
D.C. Region	10	395
Air Traffic Controller Appeals		
Nationwide	0	10,874
D.C. Region	0	291
All Other Appeals		
Nationwide	1,533	1,855
D.C. Region	168	170
Total Appeals		
Nationwide	1,625	13,895
D.C. Region	178	856

INDICES CHECKS

TO:

OCIS Room 3050 TL 231
 IIS Room 4166 TL 232
 ELSUR Room 4997 TL 114
 NCIC Room 7233 TL 243
 Wanted & CCH Files
 Attn:

b6
 b7C
 Third Party

6306

FROM: SPECIAL INQUIRY Room 5161 TL 233 , ATTN:

SUBJECT: ELLINGWOOD, HERBERT EUGENE SPIN, BUDED: 7-10-85.

The Bureau has been requested to conduct an expedite investigation of the above-captioned subject, who is being considered for an unspecified Presidential appointment. The indicated unit is requested to check appropriate indices based upon available information concerning subject, employment, and all close relatives. It is requested that the results of your checks, positive or negative, be indicated in the spaces provided below, and relayed to the Special Inquiry Unit (SPIN), Room 5161, TL 233, via routing slip marked "Urgent", on or before Buded.

Subject is described as follows:

Date Searched JUL 2 1985

Result

Name: DONE
 DOB: _____
 POB: _____
 SSAN: _____
 Current residence: _____

Neg. ☒ Pos. ☐
 Initials se

Employment: _____

Close Relatives:

Result	Relationship	Name	DOB	Residence
	WIFE	AUDREY ALICE KESLER ELLINGWOOD	8-19-32	MCLEAN, VA
	MOTHER	EDITH ARLEENE ELLINGWOOD	3-12-00	WATSONVILLE, CA
	SON	EDWIN BRUCE ELLINGWOOD	11-17-63	YORBA LINDA, CA
	SON	THOMAS BARRY ELLINGWOOD	3-18-67	MCLEAN, VA
	SISTER	PAULINE NELSON	9-13-26	SALINAS, CA
	SISTER	MILDRED CHAPMAN	9-29-28	WATSONVILLE, CA
	BROTHER	AL ELLINGWOOD	9-15-34	- AROMAS, CA
	BROTHER	WAYNE ELLINGWOOD	5-19-38	ORANGE, CA
	FATHER	HARRY CLIFFORD ELLINGWOOD	7-29-00	DECEASED
	SISTER	JUANITA ELLINGWOOD	7-19-24	DECEASED

INDICES CHECKS

b6
b7C
Third Party

TO: ~~OCIS~~ Room 3050 TL 231
IIS Room 4166 TL 232
 ELSUR Room 4997 TL 114
 NCIC Room 7233 TL 243
 Wanted & CCH Files
 Attn: [redacted]

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

FROM: SPECIAL INQUIRY Room 5161 TL 233 ATTN: [redacted]
 SUBJECT: HERBERT EUGENE ELLINGWOOD, SPIN, BUDED: ASAP

The Bureau has been requested to conduct an expedite investigation of the above-captioned subject, who is being considered for an unspecified Presidential appointment. The indicated unit is requested to check appropriate indices based upon available information concerning subject, employment, and all close relatives. It is requested that the results of your checks, positive or negative, be indicated in the spaces provided below, and relayed to the Special Inquiry Unit (SPIN), Room 5161, TL 233, via routing slip marked "Urgent", on or before Buded.

Subject is described as follows:

Result

*see
Attached*

*attached
destroyed
SM*

Name: HERBERT EUGENE ELLINGWOOD
 DOB: 3-5-31
 POB: ORDWAY, COLO
 SSAN: _____
 Current residence: 3523 BUCKSKIN CT
ROCKLIN, CALIF
 Employment: DOJ

Close Relatives:

<u>Result</u>	<u>Relationship</u>	<u>Name</u>	<u>DOB</u>	<u>Residence</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Check conducted by

CIBC/TIS on

6/20/85

INDICES CHECKS

OCIS Room 3050 TL 231
 IIS Room 4166 TL 232
ELSUR Room 4997 TL 114
 NCIC Room 7233 TL 243
 Wanted & CCH Files
 Attn:

b6
 b7C
 Third Party

FROM: SPECIAL INQUIRY Room 5161 TL 233 Attn:
 SUBJECT: HERBERT EUGENE ELLINGWOOD, SPIN, BUDED: ASAP

The Bureau has been requested to conduct an expedite investigation of the above-captioned subject, who is being considered for an unspecified Presidential appointment. The indicated unit is requested to check appropriate indices based upon available information concerning subject, employment, and all close relatives. It is requested that the results of your checks, positive or negative, be indicated in the spaces provided below, and relayed to the Special Inquiry Unit (SPIN), Room 5161, TL 233, via routing slip marked "Urgent", on or before Buded.

Subject is described as follows:

Result
NR
NR

Name: HERBERT EUGENE ELLINGWOOD
 DOB: 3-5-31
 POB: ORDWAY, COLO
 SSAN: _____
 Current residence: 3523 BUCKSKIN CT
ROCKLIN, CALIF
 Employment: DOJ

Close Relatives:

<u>Result</u>	<u>Relationship</u>	<u>Name</u>	<u>DOB</u>	<u>Residence</u>

Check conducted by C. Young on 6-21-85

INDICES CHECKS

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DATE 05-29-2007 BY AUC 60324/BAU/STP/cld

TO: OCIS Room 3050 TL 231
IIS Room 4166 TL 232
ELSUR Room 4997 TL 114
NCIC Room 7233 TL 243
Wanted & CCH Files
Attn:

6306

b6
b7C
Third Party

FROM: SPECIAL INQUIRY Room 5161 TL 233 , ATTN: **ASAP**
SUBJECT: ELLINGWOOD, HERBERT EUGENE, SPIN, BUDED: 7-10-85.

The Bureau has been requested to conduct an expedite investigation of the above-captioned subject, who is being considered for an unspecified Presidential appointment. The indicated unit is requested to check appropriate indices based upon available information concerning subject, employment, and all close relatives. It is requested that the results of your checks, positive or negative, be indicated in the spaces provided below, and relayed to the Special Inquiry Unit (SPIN), Room 5161, TL 233, via routing slip marked "Urgent", on or before Buded.

Subject is described as follows:

Result

Name: DONE
DOB: _____
POB: _____
SSAN: _____
Current residence: _____
Employment: _____

Close Relatives:

<u>Result</u>	<u>Relationship</u>	<u>Name</u>	<u>DOB</u>	<u>Residence</u>
<u>NR</u>	<u>WIFE</u>	<u>AUDREY ALICE KESLER ELLINGWOOD</u>	<u>8-19-32</u>	<u>MCLEAN, VA</u>
<u>NR</u>	<u>MOTHER</u>	<u>EDITH ARLEENE ELLINGWOOD</u>	<u>3-12-00</u>	<u>WATSONVILLE, CA</u>
<u>NR</u>	<u>SON</u>	<u>EDWIN BRUCE ELLINGWOOD</u>	<u>11-17-63</u>	<u>YORBA LINDA, CA</u>
<u>NR</u>	<u>SON</u>	<u>THOMAS BARRY ELLINGWOOD</u>	<u>3-18-67</u>	<u>MCLEAN, VA</u>
<u>NR</u>	<u>SISTER</u>	<u>PAULINE NELSON ELLINGWOOD</u>	<u>9-13-26</u>	<u>SALINAS, CA</u>
<u>NR</u>	<u>SISTER</u>	<u>MILDRED CHAPMAN ELLINGWOOD</u>	<u>9-29-28</u>	<u>WATSONVILLE, CA</u>
<u>NR</u>	<u>BROTHER</u>	<u>AL ELLINGWOOD</u>	<u>9-15-34</u>	<u>-AROMAS, CA</u>
<u>NR</u>	<u>BROTHER</u>	<u>WAYNE ELLINGWOOD</u>	<u>5-19-38</u>	<u>ORANGE, CA</u>
<u>NR</u>	<u>FATHER</u>	<u>HARRY CLIFFORD ELLINGWOOD</u>	<u>7-29-00</u>	<u>DECEASED</u>
<u>NR</u>	<u>SISTER</u>	<u>JUANITA ELLINGWOOD</u>	<u>7-19-24</u>	<u>DECEASED</u>

Check conducted by

7/2/85

INDICES CHECKS

TO:

OCIS Room 3050 TL 231
IIS Room 4166 TL 232
ELSUR Room 4997 TL 114
NCIC Room 7233 TL 243
Wanted & CCH Files
Attn:

b6
b7C
Third Party

FROM: SPECIAL INQUIRY Room 5161 TL 233 , ATTN:

SUBJECT: ELLINGWOOD, HERBERT EUGENE, SPIN, BUDED: 7-10-85.

The Bureau has been requested to conduct an expedite investigation of the above-captioned subject, who is being considered for an unspecified Presidential appointment. The indicated unit is requested to check appropriate indices based upon available information concerning subject, employment, and all close relatives. It is requested that the results of your checks, positive or negative, be indicated in the spaces provided below, and relayed to the Special Inquiry Unit (SPIN), Room 5161, TL 233, via routing slip marked "Urgent", on or before Buded.

Subject is described as follows:

Result

Name: DONE
DOB: _____
POB: _____
SSAN: _____
Current residence: _____
Employment: _____

Close Relatives:

<u>Result</u>	<u>Relationship</u>	<u>Name</u>	<u>DOB</u>	<u>Residence</u>
<u>---</u>	<u>WIFE</u>	<u>AUDREY ALICE KESLER ELLINGWOOD</u>	<u>8-19-32</u>	<u>MCLEAN, VA</u>
<u>*</u>	<u>MOTHER</u>	<u>EDITH ARLEENE ELLINGWOOD</u>	<u>3-12-00</u>	<u>WATSONVILLE, CA</u>
<u>---</u>	<u>SON</u>	<u>EDWIN BRUCE ELLINGWOOD</u>	<u>11-17-63</u>	<u>YORBA LINDA, CA</u>
<u>---</u>	<u>SON</u>	<u>THOMAS BARRY ELLINGWOOD</u>	<u>3-18-67</u>	<u>MCLEAN, VA</u>
<u>---</u>	<u>SISTER</u>	<u>PAULINE NELSON</u>	<u>9-13-26</u>	<u>SALINAS, CA</u>
<u>---</u>	<u>SISTER</u>	<u>MILDRED CHAPMAN</u>	<u>9-29-28</u>	<u>WATSONVILLE, CA</u>
<u>---</u>	<u>BROTHER</u>	<u>AL ELLINGWOOD</u>	<u>9-15-34</u>	<u>- AROMAS, CA</u>
<u>---</u>	<u>BROTHER</u>	<u>WAYNE ELLINGWOOD</u>	<u>5-17-38</u>	<u>ORANGE, CA</u>
	<u>FATHER</u>	<u>HARRY CLIFFORD ELLINGWOOD</u>	<u>7-29-00</u>	<u>DECEASED</u>
	<u>SISTER</u>	<u>JUANITA ELLINGWOOD</u>	<u>7-19-24</u>	<u>DECEASED</u>

Check conducted by * manual memo checks

FEDERAL BUREAU OF INVESTIGATION
Records/Operations Sections

6-19, 1985

- ☒ Name Searching Unit, 4543, TL# 115 b6
☒ ~~Service Unit, 4054, TL# 225~~ b7C
☐ Special File Room, 5991, TL# 122
☒ Forward to File Review 5447 TL# 143 Third Party
☒ Attention
☒ Return to 5161 4228
Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Security & Criminal)
☐ Security Search
☐ Criminal Search
☐ Main References Only
☐ Exact Name Only (On the Nose)
☐ Buildup ☒ Variations
☐ Restricted to Locality of

Subject ELLINGWOOD, HERBERT EUGENE
 Birthdate & Place 3-5-31, ORDWAY, COLO
 Lic Address 3523 BUCKSKIN CT
ROCKLIN, CA

Localities

R# 391 Date 6/20 Searcher Initials AR
 Prod.

UTD SIS 3-30-81 FILE NUMBER SERIAL
I 161-15392 (we have) AR
Herbert E. T.
I 66-65-2601-2607-2602 not'd 7-2
100-439048-67-37p.1
211-19-77-138 encl p.21 SFR
not'd 7-2 Herbert E.
52-106049-118 PRG SFR

AR draw

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Records/Operations Sections

7-1-1985

- ☒ Name Searching Unit 4543, TL# 115 b6
☐ Service Unit, 4654, TL# 225 b7C
☐ Special File Room, 5991, TL# 122
☒ Forward to File Review 5447 TL# 143 Third Party
☒ Attention _____
☒ Return to _____ 5161 4228
Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Security & Criminal)
☐ Security Search
☐ Criminal Search
☐ Main _____ References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☐ Restricted to Locality of _____

Subject ELINGWOOD, AUDREY ALICE KESLER
 Birthdate & Place 8-19-32, CASS, W. VA
 Address MC LEAN, VA

Localities NEE: KESLER

R# _____ Date 7-1 Searcher Initials 506
 Prod. _____

FILE NUMBER M SERIAL

ALL INFORMATION CONTAINED
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 DATE 05-29-2007 BY AUC 60324/BAW/STP/cld-

Herbert Eugene (Mrs)
M

KESLER, Audrey Alice
M

JUL 2 1985

FEDERAL BUREAU OF INVESTIGATION
Records/Operations Sections

7-1, 1985

- ☒ Name Searching Unit, 4543, TL# 115 b6
☐ Service Unit, 4654, TL# 225 b7C
☐ Special File Room, 5991, TL# 122
☒ Forward to File Review, 5447, TL# 143 Third Party
☒ Attention [redacted]
☒ Return to [redacted] 5/6/1 4228
 Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Security & Criminal)
☐ Security Search
☐ Criminal Search
☐ Main _____ References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☐ Restricted to Locality of _____

Subject ELLINGWOOD, EDITH ARLENE

Birthdate & Place 3-12-1900, Cass, W. VA

Address WATSONVILLE, CA

Localities

R#

Date _____

7-1

Searcher
Initials _____

506

Prod.

FILE NUMBER

SERIAL

Harry CLIFFord Mrs
Mr

ALL INFORMATION CONTAINED

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DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

JUL 2 1985

FEDERAL BUREAU OF INVESTIGATION
Records/Operations Sections

7-1, 1985

- ☒ Name Searching Unit, 4543, TL# 115 b6
☐ Service Unit, 4654, TL# 225 b7C
☐ Special File Room, 5991, TL# 122
☒ Forward to File Review 5447 TL# 143 Third Party
☒ Attention [Redacted]
☒ Return to [Redacted] 5161 4228
 Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Security & Criminal)
☐ Security Search
☐ Criminal Search
☐ Main _____ References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☐ Restricted to Locality of _____

Subject ELLINGWOOD, EDWIN BRUCE
 Birthdate & Place 11-17-63, CASTRO VALLEY, CA
 Address YORBA LINDA, CA

Localities _____

R# _____

Date 7-1
 Searcher 506
 Initials _____

Prod. _____

FILE NUMBER IN

SERIAL

ALL INFORMATION CONTAINED
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 DATE 05-29-2007 BY AUC 60324/EAU/STP/cld

JUL 12 1985
[Signature]

FEDERAL BUREAU OF INVESTIGATION
Records/Operations Sections

7-1, 19 85

- ☒ Name Searching Unit, 4543, TL# 115 b6
☐ Service Unit, 4654, TL# 225
☐ Special File Room, 5991, TL# 122 b7C
☒ Forward to File Review, 5447, TL# 143 Third Party
☒ Attention
☒ Return to 5161 4228
 Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Security & Criminal)
☐ Security Search
☐ Criminal Search
☐ Main References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☐ Restricted to Locality of

Subject ELLYNGWOOD, THOMAS BARRY
 Birthdate & Place 3-18-67, CASTRO VALLEY, CA
 Address MCLEAN, VA

Localities

R# Date 7-1 Searcher Initials SLB
 Prod.

FILE NUMBER ML

SERIAL

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

FEDERAL BUREAU OF INVESTIGATION
Records/Operations Sections

7-1, 1985

- ☒ Name Searching Unit, 4543, TL# 115 b6
☐ Service Unit, 4654, TL# 225 b7C
☐ Special File Room, 5991, TL# 122
☒ Forward to File Review 5447 TL# 143 Third Party
☒ Attention [Redacted]
☒ Return to [Redacted] 5161 4228
 Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Security & Criminal)
☐ Security Search
☐ Criminal Search
☐ Main _____ References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☒ Restricted to Locality of CA, COLO

Subject NELSON, PAULINE ELLINGWOOD
 Birthdate & Place 9-13-28, LA JOLTA, CA
 Address SALINAS, CA

Localities SEE: ELLINGWOOD

R# 583 Date 7-1 Searcher Initials 506
 Prod. _____

	FILE NUMBER	SERIAL
<u>L</u>	<u>100-402047-45</u>	<u>ex #72</u>
<u>N</u>	<u>100-382075-111</u>	<u>ex #7</u>
<u>N</u>	<u>100-382075-113</u>	<u>ex #18</u>
<u>N</u>	<u>70-3179-49</u>	<u>MP MP</u>

Ellingwood, Pauline

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

RA

FEDERAL BUREAU OF INVESTIGATION
Records/Operations Sections

7-1, 1985

- ☒ Name Searching Unit, 4543, TL# 115 b6
☐ Service Unit, 4654, TL# 225 b7C
☐ Special File Room, 5991, TL# 122
☒ Forward to File Review 5447, TL# 143 Third Party
☒ Attention [redacted]
☒ Return to [redacted] 5141 4228
Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Security & Criminal)
☐ Security Search
☐ Criminal Search
☐ Main _____ References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☐ Restricted to Locality of _____

Subject CHAPMAN, MILDRED ~~ELLEN~~
 Birthdate & Place 9-29-28, ORDAWAY, CALO
 Address WATSONVILLE, CA

Localities/NGE: ELLINGWOOD

R# 58 / Date 7-1 Searcher 506
Prod. _____ Initials _____

FILE NUMBER	SERIAL
44-0-69174	

Ellingwood, Mildred

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld-

FEDERAL BUREAU OF INVESTIGATION
Records/Operations Sections

7-1, 1985

- ☒ Name Searching Unit, 4543, TL# 115 b6
☐ Service Unit, 4654, TL# 225 b7C
☐ Special File Room, 5991, TL# 122
☒ Forward to File Review. 5447, TL# 143 Third Party
☒ Attention
☒ Return to 5161 4228
Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Security & Criminal)
☐ Security Search
☐ Criminal Search
☐ Main References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☐ Restricted to Locality of

Subject ELLINGWOOD, ALBirthdate & Place 9-15-34, Aromas, CA.Address Aromas, CALocalities R# Date 7-1Searcher SHInitials Prod. FILE NUMBER SERIAL

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld-

JUL 2 1985

FEDERAL BUREAU OF INVESTIGATION
Records/Operations Sections

7-1, 19 85

- ☒ Name Searching Unit, 4543, TL# 115 b6
☐ Service Unit, 4654, TL# 225 b7C
☐ Special File Room, 5991, TL# 122
☒ Forward to File Review 5447 TL# 143 Third Party
☒ Attention
☒ Return to 5161 4228
Supervisor, Room, TL#, Ext.

Type of Search Requested: (Check One)

- ☐ Restricted Search (Active Index - 5 & 20)
☐ Restricted Search (Active & Inactive Index - 5 & 30)
☒ Unrestricted (Active & Inactive Index)

Special Instructions: (Check One)

- ☒ All References (Security & Criminal)
☐ Security Search
☐ Criminal Search
☐ Main _____ References Only
☒ Exact Name Only (On the Nose)
☐ Buildup ☐ Variations
☐ Restricted to Locality of _____

Subject ELLINGWOOD, WAYNEBirthdate & Place 5-19-38, AROMAS, CAAddress ORANGE, CA.

Localities _____

R# _____

Date 7-1Searcher 506
Initials

Prod. _____

FILE NUMBER m

SERIAL

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

JUL 2 1985
 1305

REC'D. - IDENT. DIV.
F B I

724-327-42

JUN 20 7 24 AM '85

HERBERT EUGENE ELLINGWOOD ^{620 mbel}

DPOB: 3-5-31, Ordway, Colo

3523 BUCKSKIN COURT
ROCKLIN, CALIF.

Anything since 3-81?

no arrest record
nothing after 3-81
mek

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

Ellingwood, Herbert Eugene

W 5-10 3-5-31

1-A

FBI #

M
M PS
12 O 25 W IOO 14 ref 26
M 20 W OOI 20

Conf of Int Counsel White Hse Wash DC 7-3-85

A search of the fingerprints on the above individual has failed to disclose
prior arrest data.

Identification Division
FBI

up

19. HAVE YOU EVER HAD A NERVOUS BREAKDOWN OR HAVE YOU EVER HAD MEDICAL TREATMENT FOR A MENTAL CONDITION? ☐ YES ☒ NO.
(If your answer is "Yes," give details in item 28.)

20. FOREIGN COUNTRIES VISITED (SINCE 1930). (Exclusive of military service.)

COUNTRY

DATE LEFT U.S.A.

DATE RETURNED U.S.A.

PURPOSE

See attachment A

21. ARE YOU NOW, OR HAVE YOU EVER BEEN, A MEMBER OF THE COMMUNIST PARTY, U.S.A., OR ANY COMMUNIST OR FASCIST ORGANIZATION? ☐ YES ☒ NO.

22. ARE YOU NOW OR HAVE YOU EVER BEEN A MEMBER OF ANY FOREIGN OR DOMESTIC ORGANIZATION, ASSOCIATION, MOVEMENT, GROUP, OR COMBINATION OF PERSONS WHICH IS TOTALITARIAN, FASCIST, COMMUNIST, OR SUBVERSIVE, OR WHICH HAS ADOPTED OR SHOWS A POLICY OF ADVOCATING OR APPROVING THE COMMISSION OF ACTS OF FORCE OR VIOLENCE TO DENY OTHER PERSONS THEIR RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES, OR WHICH SEEKS TO ALTER THE FORM OF GOVERNMENT OF THE UNITED STATES BY UNCONSTITUTIONAL MEANS? ☐ YES ☒ NO.

23. IF YOUR ANSWER TO QUESTION 21 OR 22 ABOVE IS "YES," STATE THE NAMES OF ALL SUCH ORGANIZATIONS, ASSOCIATIONS, MOVEMENTS, GROUPS, OR COMBINATIONS OF PERSONS AND DATES OF MEMBERSHIP. IN ITEM 28 OR ON A SEPARATE SHEET TO BE ATTACHED TO AND MADE A PART OF THIS FORM, GIVE COMPLETE DETAILS OF YOUR ACTIVITIES THEREIN AND MAKE ANY EXPLANATION YOU DESIRE REGARDING YOUR MEMBERSHIP OR ACTIVITIES.

NAME IN FULL

ADDRESS

FROM

TO

OFFICE HELD

None

24. MEMBERSHIP IN OTHER ORGANIZATIONS. (List all organizations in which you are now a member or have been a member, except those which show religious or political affiliations.) (If none, so state.)

NAME IN FULL

ADDRESS

TYPE

FROM

TO

OFFICE HELD

See attachment B

25. RELATIVES. (Parents, spouse, divorced spouse, children, brothers, and sisters, living or dead. Name of spouse should include maiden name and any other names by previous marriage. If person is dead, state "dead" after relationship and furnish information for other columns as of time of death.)

RELATION

NAME IN FULL

YEAR OF BIRTH

ADDRESS

COUNTRY OF BIRTH

PRESENT CITIZENSHIP

X Father

Harry Clifford Ellingwood 1900

Deceased

U. S.

Yes

SF Mother

Edith Arleene Ellingwood 1900

1763 GreenValleyRD

U. S.

Yes

Watsonville, CA

* AX/RH Wife

Audrey Alice Kesler 1932

3523 Buckskin Ct

U. S.

Yes

Rocklin, CA

* LA Son

Edwin Bruce Ellingwood 1963

3523 Buckskin Ct

U. S.

Yes

Rocklin, CA

* AX/RH Son

Thomas Barry Ellingwood 1967

3523 Buckskin Ct

U. S.

Yes

Rocklin, CA

Sister

Juanita Ellingwood 1924

Deceased

U. S.

Yes

* SF Sister

Pauline Nelson 1926

792 Echo Valley Rd

U. S.

Yes

Salinas, CA

* SF Sister

Mildred Chapman 1928

1763 GreenValleyRD

U. S.

Yes

Watsonville, CA

* SF Brother

Al Ellingwood 1935

1000 Highway 101

U. S.

Yes

* Brother

Wayne Ellingwood 1938

P.O. Box 505, Rodeport

U. S.

Yes

ON BASIS OF INFORMATION FURNISHED
FBI IDENTIFICATION DIVISION
9 1985

See attachment for D, POB

PAGE 1 OF 3
JUNE 29, 1985

CLASSIFICATION
UNCLAS

PRIORITY

#F089TPP AFOTDE HQ H0089 1820100TYUTP 292131Z JUN 85

FM DIRECTOR FBI

TO ALL FBI FIELD OFFICES PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: 7/10/85

WITHOUT FAIL: {B}

REBUTELS TO ALL OFFICES DATED SEPTEMBER 7, 1982:

BUREAU HAS BEEN REQUESTED TO CONDUCT EXPEDITE UPDATE
INVESTIGATION OF APPOINTEE FOR PRESIDENTIAL APPOINTMENT, AS
ASSISTANT ATTORNEY GENERAL FOR THE OFFICE OF LEGAL POLICY,
DEPARTMENT OF JUSTICE, WASHINGTON, D. C., WHICH REQUIRES SENATE
CONFIRMATION.

ALL OFFICES CHECK INDICES AND ELSUR FILES BASED UPON
AVAILABLE INFORMATION CONCERNING APPOINTEE, HIS CLOSE RELATIVES
AND PRESENT BUSINESS ESTABLISHMENT.

WASHINGTON FIELD, IF UTILIZING MAJOR CASE INFORMATION
SYSTEM OR ISIS AND ARE OFFICE OF ORIGIN ON THOSE CASES SHOULD

APPROVED BY

TAC/KSV JRE:TLH {2}

DATE

6/29/85

ROOM

5161/6

TELE EXT.

4228

RETURN TO

ROOM 5161

b6
b7C
Third Party

206
57 APR 1 1985

1909ZCS

DO NOT FILE WITHOUT COMMUNICATIONS STAMP

161-15392-17

NOT RECORDED
17 FEB 27 1986

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE

2

CONTINUATION SHEET

START HERE
PAGE TWO DE HQ 0089 UNCLAS

ALSO CHECK THOSE DATA BASES: PROMPTLY SUTEL RESULTS {POSITIVE
OR NEGATIVE} BY TELETYPE SUMMARY AND IF POSITIVE, FOLLOW WITH
COPIES OF DOCUMENTS BY AIRTEL:

ALEXANDRIA, LOS ANGELES, PITTSBURGH, RICHMOND, SACRAMENTO,
SAN FRANCISCO AND WASHINGTON FIELD SHOULD NOT RUC UPON
COMPLETION OF THE ABOVE RECORD CHECKS AS ADDITIONAL
INVESTIGATION IS FORTHCOMING:

ELLINGWOOD IS CURRENTLY EMPLOYED BY MERIT SYSTEMS
PROTECTION BOARD, WASHINGTON, D. C., IS DESCRIBED AS BORN MARCH
5, 1931, IN ORDWAY, COLORADO; HAS SSAN 726-09-4567; AND RESIDES
6607 BRIAR HILL COURT, MC LEAN, VIRGINIA:

RELATIVES: FATHER {DECEASED}, HARRY CLIFFORD ELLINGWOOD,
BORN JULY 29, 1900, IN ALBIA, IOWA; MOTHER, EDITH ARLEENE
ELLINGWOOD, BORN MARCH 12, 1900, IN AMES, KANSAS, RESIDES 1763
GREEN VALLEY ROAD, WATSONVILLE, CALIFORNIA; SPOUSE, AUDREY
ALICE KESLER, BORN AUGUST 19, 1932, IN CASS, WEST VIRGINIA,
RESIDES 6607 BRIAR HILL COURT, MC LEAN, VIRGINIA; SON, EDWIN
BRUCE ELLINGWOOD, BORN NOVEMBER 17, 1963, IN CASTRO VALLEY,
CALIFORNIA, RESIDES 6242 GREEN TAVERN LANE, YORBA LINDA,
CALIFORNIA; SON, THOMAS BARRY ELLINGWOOD, BORN MARCH 18, 1967,

DO NOT TYPE MESSAGE BELOW THIS LINE

DO NOT TYPE PAST THIS LINE

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE

3

CONTINUATION SHEET

PAGE THREE DE HQ 0089 UNCLAS

IN CASTRO VALLEY, CALIFORNIA, RESIDES WITH APPOINTEE AND
SPOUSE; SISTER {DECEASED}, JUANITA ELLINGWOOD, BORN JULY 19,
1924, IN LA JUNTA, COLORADO; SISTER, PAULINE NELSON, BORN
SEPTEMBER 13, 1926, IN LA JUNTA, COLORADO, RESIDES 792 ECHO
VALLEY ROAD, SALINAS, CALIFORNIA; SISTER, MILDRED CHAPMAN, BORN
SEPTEMBER 29, 1928, IN ORDWAY, COLORADO, RESIDES 1355
INDEPENDENCE SQUARE, WATSONVILLE, CALIFORNIA; BROTHER, AL
ELLINGWOOD, BORN SEPTEMBER 15, 1934, IN AROMAS, CALIFORNIA,
RESIDES 1000 HIGHWAY 101, AROMAS, CALIFORNIA; BROTHER, WAYNE
ELLINGWOOD, BORN MAY 19, 1938, IN AROMAS, CALIFORNIA, RESIDES
2862 COTTONWOOD, ORANGE, CALIFORNIA.

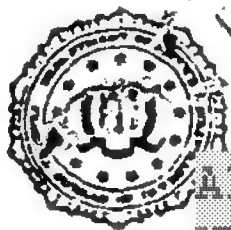
SPIN

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DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE BELOW THIS LINE



ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-19-2007 BY AUC 60324/BAW/STP/cld

U.S. Department of Justice
Federal Bureau of Investigation

Washington, D.C. 20535

FEDERAL GOVERNMENT

NO CLASSIFICATION PER OGA LETTER
DATED 06-11-2007

BY COURIER

b6
b7C
Third Party

Date: 7-1-85

To: Director, Central Intelligence Agency

☒ Attention: Deputy Director for Operations

☐ Attention: [Redacted]

From: Director, Federal Bureau of Investigation

Subject: HERBERT EUGENE ELLINGWOOD

In Reply, Please Refer to
File No.

Return to Room 5161
Attn: [Redacted]

NAME CHECK REQUEST

It is requested this Bureau be furnished all information available in the files of your Agency's
☐ Office of the Director of Security ☒ Office of the Deputy Director for Operations, concerning captioned subject.
Positive information should be attached to a copy of this form classified where appropriate and returned to this
Bureau. If the requested check is negative, a stamped notation to this effect and return of a copy of this form is
requested.

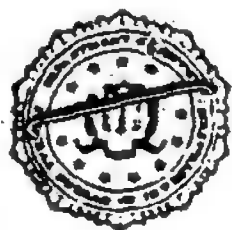
Date and Place of Birth 3-5-31 Ordway, Colorado	Aliases	Sex M	Marital Status Married	Spouse's Name Audrey Alice Kesler Ellingwood
Residence Address 6607 Briar Hill Court McLean, Virginia		Occupation Attorney		
Current Employer Merit Systems Protection Board Washington, D. C.		Former Employments The White House Washington, D. C.		
Additional Remarks: Extensive travel in the Orient.				

2 - Deputy Director for Operations
2 - Director of Security

161-15392-18
NOT RECORDED
17 FEB 27 1986

57 APR 1 1985

SPECIAL INQUIRY



6306

U.S. Department of Justice
Federal Bureau of Investigation

Washington, D.C. 20535

BY COURIER

Date: 7-1-85

To: Director, Central Intelligence Agency

☐ Attention: Deputy Director for Operations☒ Attention: Director of Security

From: Director, Federal Bureau of Investigation

Subject: HERBERT EUGENE ELLINGWOOD

In Reply, Please Refer to
File No.Return to Room 5161
Attn:

7/8/85

b3
b6
b7C
Third Party

NAME CHECK REQUEST

☒ It is requested this Bureau be furnished all information available in the files of your Agency's
☒ Office of the Director of Security ☐ Office of the Deputy Director for Operations, concerning captioned subject.
Positive information should be attached to a copy of this form classified where appropriate and returned to this Bureau. If the requested check is negative, a stamped notation to this effect and return of a copy of this form is requested.

Date and Place of Birth 3-5-31 Ordway, Colorado	Aliases	Sex M	Marital Status Married	Spouse's Name Audrey Alice Kesler Ellingwood
Residence Address 6607 Briar Hill Court McLean, Virginia		Occupation Attorney		
Current Employer Merit Systems Protection Board Washington, D. C.		Former Employments The White House Washington, D. C.		
Additional Remarks: Extensive travel in the Orient.				

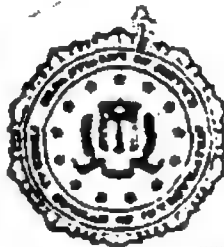
2 - Deputy Director for Operations

2 - Director of Security

161-15392-18

SPECIAL INQUIRY

ENCLOSURE



60304

U.S. Department of Justice

Federal Bureau of Investigation

NO CLASSIFICATION PER OGA LETTER
DATED 06-11-2007

Washington, D.C. 20535

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-19-2007 BY AUC 60324/BAW/STP/cld

BY COURIER

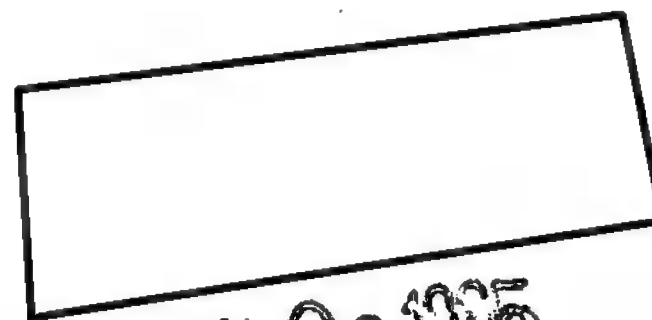
Date: 7-1-85

To: Director, Central Intelligence Agency

☒ Attention: Deputy Director for Operations☐ Attention: Director of Security

From: Director, Federal Bureau of Investigation

Subject: WAYNE ELLINGWOOD

In Reply, Please Refer to
File No.Return to Room 5161
Attn: 

b3

b6

b7C

Third Party

NAME CHECK REQUEST

It is requested this Bureau be furnished all information available in the files of your Agency's
☐ Office of the Director of Security ☒ Office of the Deputy Director for Operations, concerning captioned subject.
Positive information should be attached to a copy of this form classified where appropriate and returned to this
Bureau. If the requested check is negative, a stamped notation to this effect and return of a copy of this form is
requested.

Date and Place of Birth 5-19-38 Aromas, California	Aliases Unk	Sex M	Marital Status Unk	Spouse's Name Unk
Residence Address 2862 Cottonwood Orange, California		Occupation Unk		
Current Employer Unk		Former Employments Unk		
Additional Remarks: Brother of appointee, Herbert Eugene Ellingwood, resided in Roodepoort Tvl., 1725, South Africa in 1981.				

2 - Deputy Director for Operations
2 - Director of Security

161-15392-18

SPECIAL INQUIRY

Airtel

July 1, 1985

Director, FBI (161-15392)

SACS, Alexandria (161B-7785) - Enc. (2)
Los Angeles - Enc. (2)
Pittsburgh - Enc. (2)
Richmond - Enc. (2)
Sacramento (161B-785) - Enc. (2)
San Francisco (161B-3605) - Enc. (2)

HERBERT EUGENE ELLINGWOOD
SPECIAL INQUIRY
BUDED: 7/10/85 (B)

Rebutel 6/29/85.

Enclosed are background data and release received with
request for investigation.

SPIN

MAILED 14
JUL 01 1985
FBI
JLE: [signature] (14)
Exec AD Adm. _____
Exec AD Inv. _____
Exec AD LES _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Insp. _____
Intell. _____
Lab. _____
Legal Coun. _____
Off. Cong. & _____
Public Affs. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Telephone Rm. _____
Director's Sec'y _____

RETURN TO



ROOM 5161

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Third Party

206
57 APR 1 1986

161-15392-19

NOT RECORDED
17 FEB 27 1986

AX handcarried by special messenger (BSM).

MAIL ROOM

7/1/85
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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

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DE CI

R 021930Z JUL 8.

FM CINCINNATI (161B-R-155) (RUC)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPIN; BUDED: JULY 10, 1985, WOF. (B)

RE BUREAU TELETYPE, JUNE 30, 1985.

A REVIEW OF THE CINCINNATI OFFICE GENERAL INDICES BY
INVESTIGATIVE ASSISTANT ALBERT W. TAYLOR; ELSUR FILES BY CLERK
[REDACTED] AND INFORMANT FILE INDEX BY CONFIDENTIAL
CLERK [REDACTED] ON JULY 1, 1985, BASED UPON

INFORMATION CONCERNING THE APPOINTEE, CLOSE RELATIVES, AND PRESENT
BUSINESS ESTABLISHMENT FURNISHED IN REFERENCED TELETYPE, MET
WITH NEGATIVE RESULTS.

BT

Exec AD-Adm.	
Exec AD-Inv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Insp.	
Intell.	
Laboratory	
Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgmt.	
Tech. Servs.	
Training	
Telephone Rm.	
Director's Sec'y	

General Applicant & JIL 233

b6

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Third Party

(C)

161-15392-20

NOT RECORDED

17 FEB 27 1986

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57 APR 1 1986

PG 020 183 2133Z

RR HQ

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FM PITTSBURGH (161B-1730-315.9) (P)✓

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPIN, BUDED: JULY 10, 1985 (WOF)

RE BUREAU TT TO ALL FBI FIELD OFFICES DATED JUNE 29, 1985.

A REVIEW OF PITTSBURGH INDICES AND ELSUR FILES FAILED TO LOCATE
ANY INFORMATION IDENTIFIABLE WITH THE APPOINTEE OR ANY MEMBERS OF HIS
IMMEDIATE FAMILY.

INDICES CHECKS WERE CONDUCTED BY [REDACTED] AND ELSUR
CHECKS WERE CONDUCTED BY [REDACTED]
SPIN.

BT

2 JUL 85 21 35Z

FEDERAL BUREAU
OF INVESTIGATION

General Applicant & Sp...
TL 233

Exec. AD-Adm.	
Exec. AD-Inv.	
Exec. AD-LES	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Insp.	
Intell.	
Laboratory	
Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgmt.	
Tech. Serv.	
Training	
Off. of the Inspector General	
Director's Sec'y	

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Third Party

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17 FEB 27 1986

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57 APR 1 1986

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RR HQ

DE SV

R 02 2012Z JUL 85

FM SAVANNAH (161B-161-542) (RUC)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY.
OUT FAIL (B).

RE BUREAU TELETYPE TO ALL OFFICES 6/29/85, RECEIVED IN THE
SAVANNAH DIVISION ON 6/30/85.

SAVANNAH OFFICE INDICES AND ELSUR INDICES NEGATIVE REGARDING
APPOINTEE, RELATIVES AND BUSINESS ESTABLISHMENTS AS LISTED IN
REFERENCED TELETYPE.

OFFICE INDICES WERE SEARCHED BY SPC [REDACTED] ON 6/30/85
AND FILE ASSISTANT (SECURITY) [REDACTED] ON 7/1/85.

ELSUR INDICES SEARCHED BY FILE ASSISTANT (TYPING) [REDACTED]

[REDACTED] ON 7/1/85.

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

6304
2 JUL 85 20
FEDERAL BUREAU
OF INVESTIGATION

General Applicant & S [REDACTED] ROOM 5155
TL 233

BUDED: 7/10/85, WITH-

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Third Party

161-15392-22

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17 FEB 27 1986

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57 APR 1 1986

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 1 OF 2

DATE

JULY 31 1985

CLASSIFICATION

UNCLAS

PRECEDENCE

PRIORITY

#F220PP AF0DE HQ H0220 1850405YUWP 032059Z JUL 85

SYNOPSIS WERE

FM DIRECTOR FBI

FM

TO ALL FBI FIELD OFFICES PRIORITY

BT

UNCLAS

CHANGED: HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY,

BUDED: 7/17/85, WITHOUT FAIL: {B}

TITLE MARKED "CHANGED" TO INDICATE CHANGE IN BUDED FROM
7/10/85, TO 7/17/85, AS INDICATED ABOVE:

REFERENCE BUREAU TELETYPE DATED 6/29/85, TO ALL
OFFICES:

ALL OFFICES ARE REMINDED TO FOLLOW DAPLI REPORTING
RULES AND TO SUBMIT A REPORT SUITABLE FOR DISSEMINATION TO
THE WHITE HOUSE:

DUE TO URGENT NATURE OF REQUEST IT IS IMPERATIVE BUDED
BE MET WITHOUT FAIL:

SPIN

BT

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

APPROVED BY

TTOC/JLE

DRAFTED BY

JLE:MG

DATE

7/3/85

ROOM

5161/6

TELE EXT.

4228

RETURN TO

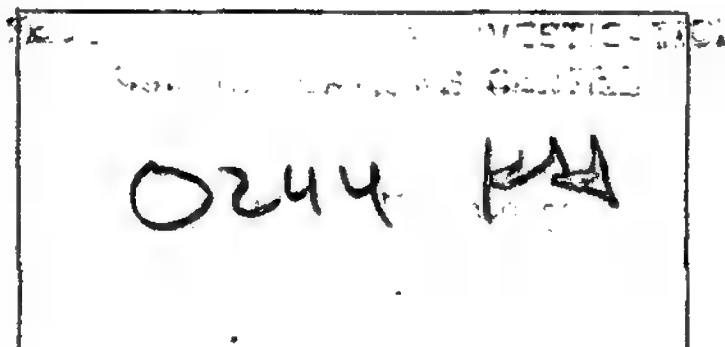


ROOM 5161

b6

b7C

Third Party



NOT RECORDED

17 FEB 27 1986

DO NOT FILE WITHOUT COMMUNICATIONS STAMP

FBI/DOJ

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 2

CONTINUATION SHEET

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NOO 005 184 1623Z

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/clb

PP HQ

DE NO

P 03 1610Z JUL 85

FM NEW ORLEANS (161)

TO DIRECTOR

PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: JULY 10, 1985,

WITHOUT FAIL (B)

RE BUREAU TELETYPE TO ALL FBI FIELD OFFICES, DATED JUNE 29,

1985.

ON JULY 2, 1985, NEW ORLEANS INDICES AND ELSEWHERE FILES WERE

SEARCHED WITH NEGATIVE RESULTS FOR ANY INFORMATION IDENTIFIABLE

WITH HERBERT EUGENE ELLINGWOOD AND CLOSE RELATIVES WITH THE

FOLLOWING EXCEPTION: BUREAU AIRTEL TO ALL SAC'S, DATED JULY 22,

1981, CONTAINED A REVISED LIST OF THOSE PERSONS SUBJECT TO THE

SPECIAL PROSECUTOR PROVISION OF THE ETHICS IN GOVERNMENT ACT OF

1978. THE NAME HERBERT E. ELLINGWOOD APPEARS AS DEPUTY COUNSEL

General Applicant & Special Agent

161-15392-24

161-15392-24

NOT RECORDED

17 FEB 27 1986

6 JH

57 APR 1 1985

PAGE TWO

NO 161B-R-121

UNCLAS

TO THE PRESIDENT.

INDICES SEARCHED BY MAIL CLERK [REDACTED] AND

CONFIDENTIAL CLERK [REDACTED] ELSUR FILES SEARCHED BY

ELSUR CLERK [REDACTED] REVIEWED BY IA [REDACTED]

BT

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Third Party

THATS ALL PLS ACK THANKS

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RR HQ

DE BU

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FEDERAL BUREAU
OF INVESTIGATION

R 032105Z JUL 84

FM BUFFALO (161B-R-111) (RUC)

TO DIRECTOR ROUTINE

BT

UNCLAS

General Applicant & Sp/12/11/5155
TL 233

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY (BUDED: JULY 10, 1985)

WITHOUT FAIL.

RE BUREAU TEL JULY 1, 1985.

ON JULY 1, 1985, SCA [REDACTED]

CHECKED GENERAL

INDICES; ON JULY 2, 1985, FILE ASSISTANT [REDACTED]

CHECKED SPECIAL INDICES; AND ON JULY 2, 1985, ASSISTANT ELSUR

COORDINATOR [REDACTED]

CHECKED ELSUR INDICES RE CAPTIONED

APPOINTEE, CLOSE RELATIVES AND PRESENT BUSINESS ESTABLISHMENT

LISTED IN RETEL WITH NEGATIVE RESULTS.

BT

Exec AD-Adm.	
Exec AD-Inv.	
Exec AD-LES	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
Ident.	
Inspection	
Intell.	
Laboratory	
Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgmt.	
Tech. Servs.	
Training	
Telephone Rm.	
Director's Sec'y	

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Third Party

161-15392-25
NOT RECORDED

17 FEB 27 1986

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57 APR 1 1985

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

AT0013 01842134Z

RR HQ

DE AT

R 032100Z JUL 85

3 JUL 85
FEDERAL BUREAU
OF INVESTIGATION

FM ATLANTA (161-1805)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: 7/10/85 WOF.

REFERENCE BUREAU TELETYPE, JUNE 29, 1985.

General Applicant & Special Agent

TL 233

ON JULY 2, 1985, THE INDICES AND ELSUR FILES OF THE ATLANTA
DIVISION WERE SEARCHED AND FOUND TO CONTAIN NO INFORMATION
IDENTIFIABLE WITH THE APPOINTEE OR CLOSE MEMBERS OF HIS FAMILY
BASED UPON AVAILABLE INFORMATION.

ELSUR SEARCHED BY CLERICAL EMPLOYEE (CE) [REDACTED]

GENERAL INDICES SEARCHED BY CE [REDACTED]

SPECIAL

INDICES SEARCHED BY CE [REDACTED]

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Third Party

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FEDERAL BUREAU
OF INVESTIGATION

AN0010 1840139Z

RR HQ

DE AN

RO20139Z JUL 85

FM ANCHORAGE (161-0) ✓

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: JULY 10,
1985, WITHOUT FAIL. (B)

REBUTEL TO ALL FIELD OFFICES, JUNE 29, 1985.

ANCHORAGE DIVISION GENERAL INDICES, AS CHECKED BY SCA [REDACTED]

[REDACTED] ON JUNE 30, 1985, AND ELSUR INDICES, AS CHECKED BY SAC

SECRETARY [REDACTED] ON JULY 1, 1985, NEGATIVE REGARDING

APPOINTEE, CLOSE RELATIVES, AND CURRENT EMPLOYMENT, AS SET FORTH

IN REFERENCED BUREAU TELETYPE.

BT

General Applicant: *Shur* 5155
IL 233

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Third Party

161-15392-27
NOT RECORDED

17 FEB 27 1986

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FBI

TRANSMIT VIA:

- ☐ Teletype
- ☐ Facsimile
- ☒ AIRTEL

PRECEDENCE:

- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:

- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date 7-3-85

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

5/1
over

TO: DIRECTOR, FBI (161-)

FROM: SAC, ALEXANDRIA (161B- 7785) (P)

SUBJECT: HERBERT EUGENE ELLINGWOOD. SPECIAL INQUIRY.
BUDED: 7/10/85 WITHOUT FAIL. (B)

Re Butel to ALL FBI FIELD OFFICES DATED 6-29-85.

The following Alexandria indices were checked with negative results regarding the appointee/applicant, listed family members and present business establishment if applicable:

7-1-85, General Indices - [redacted].

7-3-85, Confidential and Elsur Indices - [redacted].

[redacted]

7-1-85, ISIS - [redacted].

(X)

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Third Party

2-Bureau ~~to be destroyed~~
1-Alexandria

(3)

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161- 15392-28

Approved: 990/SEL Transmitted _____ Per _____
(Number) (Time)

NOT RECORDED
17 FEB 27 1986

57 APR 1 1985

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/clb

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PP HQ

DE AL

3 JUL 85 042

FEDERAL BUREAU
OF INVESTIGATION

003 2100Z JUL 85

FM SAC, ALBANY (161B-R-86) (RUC)

TO DIRECTOR, FBI (PRIORITY)

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY; BUDED JULY 10, 1985.

RE BUREAU TELETYPE TO ALL FBI OFFICES DATED JUNE 29, 1985

ALBANY INDICES NEGATIVE REGARDING APPOINTEE AND ALL CLOSE
RELATIVES LISTED IN REFTTEL.

GENERAL INDICES SEARCHED ON JULY 1, 1985 BY MDE [REDACTED]

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Third Party

CFR INDICES SEARCHED ON JULY 2, 1985 BY FILE ASSISTIT

ELSUR INDICES SEARCHED ON JULY 2, 1985 BY CONFIDENTIAL

CLERK-TYPIST [REDACTED]

BT

161-15392-29
NOT RECORDED

17 FEB 27 1986

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57 APR 1 1986

6306
29
FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE PITTSBURGH	OFFICE OF ORIGIN BUREAU	DATE 7/3/85	INVESTIGATIVE PERIOD 7/1/85-7/3/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld		REPORT MADE BY IA 	TYPED BY cal
		CHARACTER OF CASE SPIN b6 b7C Third Party	

REFERENCE:

Bu tel to WF, 6/29/85.

ADMINISTRATIVE:

Individuals contacted in this matter were advised of the provisions of the Privacy Act of 1974, and none requested confidentiality.

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES			

APPROVED <i>WAW</i> COPIES MADE: <i>Jem</i>	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW
② <u>1</u> copies to White House <u>7-26-85</u> Bureau 1 - Pittsburgh (161B-1730-3159)		161-15392-30 NOT RECORDED 2 JUL 5 1985 <i>WAW</i>

Dissemination Record of Attached Report					Notations
Agency					
Request Recd.					
Date Fwd.					
How Fwd.					
By					

206
57 APR 1 1985

COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATIONALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

b6

b7C

Copy to: Third Party

Report of: IA [REDACTED]
Date: 7/3/85
Field Office File #: 161B-1730-3159
Title: HERBERT EUGENE ELLINGWOOD

Office: PITTSBURGH, PA.

Bureau File #:

Character: SPECIAL INQUIRY

Synopsis: Office of Personnel Management (OPM) checks negative.

-RUC-

DETAILS:

On July 3, 1985, Jim Scott, Records Supervisor, United States Office of Personnel Management (USOPM), NACI Center, Boyers, Pennsylvania, advised that his indices contain no record for captioned individual.

1*

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

July 3, 1985

Judge:

RE: Candidates for Various Assistant Attorney (AAG)
Positions in the Department of Justice (DOJ)

By note dated 7/1/85, you were provided the names of the candidates for various AAG positions on whom we've been asked to do backgrounds. As a result of our inquiries regarding the status of the candidacy of Carolyn Kuhl to fill Brad Reynolds' position in light of published reports that Brad will remain as AAG of the Civil Rights Division, the White House has requested that we discontinue the background on Ms. Kuhl.

HERBERT EUGENE
DOJ (per Jay Stephens), with the concurrence of Mr. Fielding's office, wants to give precedence to the backgrounds of Messrs. Willard and Ginsburg over those of Messrs. Cooper and Ellingwood. DOJ's desire apparently is to try to have confirmation hearings on Willard and Ginsburg scheduled for sometime after 7/16. We've advised both Jay Stephens and Dick Hauser that we intend to have the results of Willard's and Ginsburg's backgrounds to the White House by 7/10. This will give us adequate time to complete them especially since WFO which has the bulk of all four backgrounds, can now concentrate on just two.

According to Jay Stephens, and Dick Hauser is aware of this, the results of the Cooper and Ellingwood backgrounds won't be needed until 8/1. We plan to get them to the White House by 7/25, the projected completion date these cases would normally have as Presidential Appointments requiring Senate confirmation.

161-15392-30X
O. B. Revell

NOT RECORDED
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NOV 10 1986

ORIGINAL FILED IN 161-181635

Original cannot be located and is not on record. When original is received in Records Branch it will be filed either with this copy or may be given a new serial.

11/10/86

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Third Party

MAR 11 1987

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

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P 032221Z JULY 85

FM TAMPA (161B-R-95) (SG. 6) (RUC)

TO DIRECTOR PRIORITY

BT

UNCLAS

FEDERAL BUREAU
OF INVESTIGATION

General Applicant & Special Agent
TL 233

HERBERT EUGENE ELLINGWOOD, SPIN, BUDED: JULY 19, 1985, UOF (B)

RE BUREAU TELETYPE TO ALL OFFICES, JUNE 30, 1985.

WHERE APPROPRIATE, PRIVACY ACT (E) (3) DATA WAS FURNISHED TO
PERSONS INTERVIEWED. EXPRESS PROMISES OF CONFIDENTIALITY, BOTH
LIMITED AND UNLIMITED, HAVE BEEN NOTED WHERE GRANTED.

ON JULY 2, 1985, A SEARCH OF THE GENERAL INDICES BY [REDACTED]

[REDACTED] APPLICANT CLERK, AND ELSUR INDICES BY [REDACTED]

ELSUR FILE ASSISTANT, WAS NEGATIVE CONCERNING APPOINTEE OR HIS
LISTED RELATIVES.

INVESTIGATION IS COMPLETED IN THE TAMPA DIVISION AND NO REPORT
IS BEING SUBMITTED.

BT

NOT RECORDED

17 FEB 27 1986

206

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no receipt 1-7-86 10:33

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

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R 030208Z JULY 85

M MINNEAPOLIS (161-1335-626) (RUC)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPI (B); BUDED: JULY 12, 1985.

REBUTEL TO ALL FIELD OFFICES, DATED JUNE 29, 1985. General Applicant & [redacted] 5135

NO REFERENCE WAS FOUND REGARDING APPOINTEE AND LISTED 233.

CLOSE RELATIVES. THE FOLLOWING MINNEAPOLIS DIVISION INDICES
WERE CHECKED ON JULY 2, 1985, BY THE INDICATED MINNEAPOLIS
EMPLOYEES:

GENERAL INDICES: [redacted]

CONFIDENTIAL INDICES: [redacted]

ELSUR INDICES: [redacted]

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Third Party

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FEDERAL BUREAU
OF INVESTIGATION

Exec AD-Adm.	
Exec AD-Inv.	
Exec AD-LES	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Inspection	
Intell.	
Laboratory	
Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgnt.	
Training	
Off. of Liaison & Int. Affs.	
Director's Sec'y	

161-15392-32

NOT RECORDED

17 FEB 27 1986

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

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RR HQ

DE LV

R 030415Z JUL 85

FM LAS VEGAS (161B-R-22) (RUC)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10,
1985, WITHOUT FAIL.

REFERENCE BUREAU TELETYPE TO ALL OFFICES, JULY 12, 1985.

General Applicant: ~~SPR 6100~~

TE 233

THE FOLLOWING CHECKS WERE CONDUCTED IN LAS VEGAS
DIVISION REGARDING APPOINTEE AND FAMILY MEMBERS BY THE
INDIVIDUALS LISTED BELOW, WITH NEGATIVE RESULTS:

GENERAL INDICES, INVESTIGATIVE ASSISTANT [REDACTED]

[REDACTED] JULY 2, 1985.

ELSUR INDICES, [REDACTED] JULY 3, 1985.

BT

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Third Party

161-15392-33

NOT RECORDED

17 FEB 27 1986

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FEDERAL BUREAU
OF INVESTIGATION

FM MEMPHIS (161B-R-96) (RUC)

TO DIRECTOR ROUTINE

BT

UNCLAS E F T O

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: JULY 10, 1985.

WOF. (B)

RE BUTEL TO ALL FIELD OFFICES, JUNE 29, 1985

General Applicant & Special Agent

[REDACTED] FORFEITURE SPECIALIST, CHECKED GENERAL INDICES.

[REDACTED] FILE ASSISTANT, CHECKED INFORMANT INDICES.

[REDACTED] FILE ASSISTANT, CHECKED ELSUR INDICES.

ALL OF THE ABOVE CHECKS WERE MADE ON JULY 1, 1985, WITH
NEGATIVE RESULTS CONCERNING APPOINTEE AND CLOSE RELATIVES.

BT b6

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Third Party

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NOT RECORDED

17 FEB 27 1986

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57 APR 1 1986

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FORMS.TEXT HAS 1 DOCUMENT

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FEDERAL BUREAU
OF INVESTIGATION

INBOX.1 (#6532)

TEXT:
BA00088 1842208Z

RR HQ

DE BA

R 032100Z JUL 85
FM BALTIMORE (161-6770-650) (SQ. 9)

TO DIRECTOR ROUTINE

BT

U N C L A S

HERBERT EUGENE ELLINGWOOD; SPIN; BUDED JULY 10, 1985

RE BUTEL TO ALL OFFICES DATED JUNE 29, 1985.

ON JULY 2, 1985, A SEARCH OF BALTIMORE INDICES, GENERAL,
CONFIDENTIAL AND ELSUR CONDUCTED BY [REDACTED] DISCLOSED NO
IDENTIFIABLE INFORMATION REGARDING THE APPOINTEE, HIS LISTED
RELATIVES OR HIS BUSINESS BASED ON THE INFORMATION PROVIDED.

BT

Exec. AD-Adm.	_____
Exec. AD-Inv.	_____
Exec. AD-LES	_____
Asst. Dir.:	_____
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Inspection	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Off. of Cong. & Public Affs.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Telephone Rm.	_____
Director's Sec'y	_____

General Applicant & Sp. [REDACTED] 5155
TL 233

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Third Party

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161-15392-35

NOT RECORDED
17 FEB 27 1986

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

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FM BUTTE (161-0-608) ✓
TO DIRECTOR, FBI (ROUTINE)

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10, 1985,
WITHOUT FAIL (B).

RE BUREAU TELETYPE TO ALL FBI OFFICES, JUNE 29, 1985.

ON JULY 1, 1985 AND JULY 2, 1985, BUTTE GENERAL OFFICE INDICES,
OFFICE ELSUR INDICES AND ISIS WERE REVIEWED BY CLERKS [REDACTED]
[REDACTED] AND ISIS ANALYST [REDACTED]
RESPECTIVELY. NO RECORD WAS FOUND IDENTIFIABLE WITH APPOINTEE OR
IMMEDIATE FAMILY.

BT

Exec. AD-Adm.	
Exec. AD-Inv.	
Exec. AD-LES	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
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Inspection	
Intell.	
Laboratory	
Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgnt.	
Tech. Servs.	
Training	
Telephone Rm.	
Director's Sec'y	

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FEDERAL BUREAU
OF INVESTIGATION

SEARCHED INDEXED & SERIALIZED
JUL 23 1985

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Third Party

161-15392-36

NOT RECORDED

17 FEB 27 1986

57 APR 1 1986

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

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FEDERAL BUREAU
OF INVESTIGATION

FM LOUISVILLE (161B-1402) (RUC)

TO DIRECTOR PRIORITY

BT

UNCLAS

General App. Room 5155
TL 233

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY; BUDED: 7/17/85, WITHOUT
FAIL.

RE BUREAU TELETYPES TO ALL FBI FIELD OFFICES, DATED 6/29/85, AND
7/3/85.

BASED UPON AVAILABLE INFORMATION CONCERNING APPOINTEE, HERBERT
EUGENE ELLINGWOOD AND HIS CLOSE RELATIVES, THE GENERAL INDICES OF THE
LOUISVILLE OFFICE WERE SEARCHED ON 6/30/85, AND THE ELSUR INDICES
WERE SEARCHED ON 7/2/85, WITH NEGATIVE RESULTS. THE LOUISVILLE
GENERAL INDICES WERE SEARCHED BY RECORDS UNIT CLERK [REDACTED]
AND THE ELSUR INDICES WERE SEARCHED BY IA [REDACTED]

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Third Party

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17 FEB 27 1986

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FM MILWAUKEE (161B-15392-38)

TO DIRECTOR PRIORITY

BT

UNCLAS E F T O

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10, 1985,
WITHOUT FAIL. (S)

General Applicant in Room 5155

TL 233

REFERENCE BUREAU TELETYPE TO ALL OFFICES, JUNE 29, 1985.

ON JULY 1, 1985, FSA [REDACTED] CHECKED THE ELSUR
INDICES, AND ANALYST [REDACTED] CHECKED MILWAUKEE CCIS,
AND ON JULY 3, 1985, IA [REDACTED] CHECKED THE GENERAL
INDICES OF THE MILWAUKEE OFFICE WITHOUT LOCATING ANY INFORMATION
IDENTIFIABLE WITH APPOINTEE. ANY MEMBERS OF HIS FAMILY OR
PRESENT BUSINESS ESTABLISHMENT.

BT

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Third Party

161-15392-38

NOT RECORDED

17 FEB 27 1986

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAU/STP/cld

FEDERAL BUREAU
OF INVESTIGATION

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P 05 2112Z JUL 35

FM NEW HAVEN (151B-R-113)

TO DIRECTOR PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: 7/10/85,

NOF(B).

General Appl. & Spin Room 5159
IL 233

REBUTEL TO ALL OFFICES, JUNE 29, 1935.

ON JUNE 20, 1935, NEW HAVEN GENERAL INDICES, AS SEARCHED
BY SUPPORT EMPLOYEE [REDACTED] REGARDING APPOINTEE,
CLOSE RELATIVES AND PRESENT BUSINESS ESTABLISHMENT, REFLECTED
ONE REFERENCE NHIS1-2583, IDENTICAL TO APPOINTEE. NEW HAVEN
OPENED INVESTIGATION 3/30/81, AND RUC'D 4/9/81. ON JUNE
20, 1935, NEW HAVEN SPECIAL INDICES AS SEARCHED BY FILE
ASSISTANT [REDACTED] PROVED NEGATIVE FOR APPOINTEE
AND CLOSE RELATIVES.

BT

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Third Party

161-15392-39
NOT RECORDED
17 FEB 27 1986

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57 APR 1 1986

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

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TELETYPE UNIT

5 JUL 85 10 51z

FEDERAL BUREAU
OF INVESTIGATION

6306

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Mr. Holmes	
Miss Gandy	

CV0 0004 186 1807

FP HQ

DE CV

P 5 1554 JUL 85

FM CLEVELAND (161B-R-25) (RUC)

TO DIRECTOR PRIORITY

BT

UNCLAS

General Application & Spin Room 8/55
TL 233

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10, 1985

WITHOUT FAIL (B)

RE BUREAU TELETYPE TO ALL OFFICES, JULY 1, 1985.

ON JULY 3, 1985, INVESTIGATIVE ASSISTANT (IA) [REDACTED]

[REDACTED] AND CLERK [REDACTED] RESPECTIVELY, REVIEWED INDICES AND

ELSUR FILES REGARDING APPOINTEE, CLOSE RELATIVES, AND PRESENT
BUSINESS ESTABLISHMENT.

THERE WAS NOTHIN IN THE FILES IDENTIFIABLE WITH APPOINTEE,
CLOSE RELATIVES, AND PRESENT BUSINESS ESTABLISHMENTS.

CLEVELAND ISIS DATA BASES CHECKED AND ARCHIVED ISIS RECORDS 17 FEB 27 1986

WERE CHECKED WITH NEGATIVE RESULTS PER ISIS ANALYST [REDACTED]

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FEDERAL BUREAU
OF INVESTIGATION

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FM CHICAGO (161B-R-98) (RUC) (SQUAD 12)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED
JULY 10, 1985.

General Application Room 5155
IL 233

RE BUREAU TELETYPE TO ALL FIELD DIVISIONS, DATED
JUNE 29, 1985.

BASED ON INFORMATION PROVIDED IN REFERENCED BUTEL,
A SEARCH OF THE CHICAGO OFFICE RECORDS DISCLOSED NO
IDENTIFIABLE INFORMATION ON APPOINTEE OR ANY OF HIS CLOSE
RELATIVES AS SET FORTH IN REFERENCED TELETYPE.

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Third Party

GENERAL INDICES WAS SEARCHED BY [REDACTED] ON
JUNE 30, 1985; ELSUR BY [REDACTED] ON JULY 2, 1985, AND
CONFIDENTIAL INDICES BY [REDACTED] ON JULY 2, 1985.

CHICAGO IS NOT CONDUCTING ANY FURTHER INVESTIGATION.

BT

NOT RECORDED

17 FEB 27 1986

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FM BOSTON (161B-6920) (RUC)

TO DIRECTOR (PRIORITY)

BT

UNCLAS

RECEIVED
TELETYPE UNIT

6 JUL 85 00 12Z

FEDERAL BUREAU
OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/clg

General Application Room 5155

TL 233

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10, 1985,
WITHOUT FAIL (B).

RE BUREAU TELETYPE TO ALL FBI FIELD OFFICES, DATED JUNE 29,
1985.

ON JULY 2, 1985, THE OFFICE AND ELSURE INDICES OF THE BOSTON
DIVISION WERE SEARCHED BY IA [REDACTED] AND FAILED
TO PROVIDE ANY INFORMATION IDENTIFIABLE WITH APPOINTEE, OR
HIS CLOSE RELATIVES, BASED ON INFORMATION SET FORTH IN
REFERENCED TELETYPE.

BT

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Third Party

161-15392-42

NOT RECORDED

17 FEB 27 1986

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6 JUL 1985 252
FEDERAL BUREAU
OF INVESTIGATION

FM SPRINGFIELD (161B-1779) (RUC).

TO DIRECTOR ROUTINE

BT

UNCLAS

General 9/11
TL 233
Room 515b

HERBERT EUGENE ELLINGWOOD, SPIN; BUDED JULY 10, 1985

RE BUREAU TEL TO ALL OFFICES, JUNE 29, 1985.

ON JULY 5, 1985, SEARCH OF SPRINGFIELD GENERAL AND ELSUR

b6

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Third Party

INDICES RE APPOINTEE AND CLOSE RELATIVES, NEGATIVE.

GENERAL INDICES SEARCH CONDUCTED BY [REDACTED]

ELSUR INDICES SEARCH CONDUCTED BY [REDACTED]

BT

161-15392-43

NOT RECORDED

17 FEB 27 1986

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FORMS.TEXT HAS 1 DOCUMENT

INBOX.1 (#6703)

TEXT:

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FM FBI RICHMOND (16B-R-2220) (P) ✓

TO DIRECTOR FBI (161-15392) ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: JULY 10, 1985,
WITHOUT FAIL. (B)

RE BUREAU TELETYPE TO WASHINGTON FIELD OFFICE DATED JUNE 29,
1985.

WHERE APPROPRIATE, PRIVACY ACT (E) (3) DATA WAS FURNISHED TO
PERSONS INTERVIEWED. EXPRESS PROMISES OF CONFIDENTIALITY, BOTH
LIMITED AND UNLIMITED, HAVE BEEN NOTED WHERE GRANTED.

ON JULY 2, 1985, THE ELSUR INDICES OF THE RICHMOND DIVISION, AS
CHECKED BY MISCELLANEOUS DOCUMENTS EXAMINER [REDACTED] TH b6
INFORMANT INDICES, AS CHECKED BY CLERK [REDACTED] AND THE b7C
GENERAL INDICES, AS CHECKED BY CLERK [REDACTED] WERE Third Party
NEGATIVE AS TO APPOINTEE AND ALL CLOSE RELATIVES.

General Applicant & Spin Room 5755
JL 238

NOT RECORDED

17 FEB 27 1986

57 APR 1 1986

PAGE TWO DE RH 0007 UNCLAS

REPORT FOLLOWS.

RICHMOND DIVISION AT RICHMOND, VIRGINIA - INVESTIGATION
CONTINUING.

BT

#0007

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P 052345Z JUL 85

FM SALT LAKE CITY (161B-R-122) 342

TO DIRECTOR PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 17, 1985

WITHOUT FAIL. (B)

General Applicant Room 5155

TL 233

RE BUREAU TELETYPES TO ALL OFFICES, JUNE 29, 1985 AND

JULY 3, 1985.

A CHECK OF THE SALT LAKE CITY GENERAL INDICES BY [REDACTED]

b6

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Third Party

[REDACTED] SECURITY COMPLAINT ASST., ON JUNE 30, 1985; ELSUR INDICES

BY [REDACTED] CONFIDENTIAL CLERK TYPIST, ON JULY 5,

1985; AND INFORMANT INDICES BY [REDACTED] CONFIDENTIAL

CLERK, ON JULY 3, 1985 REFLECTED NOTHING IDENTIFIABLE WITH

APPOINTEE, CLOSE RELATIVES, OR BUSINESS ESTABLISHMENTS.

SPIN

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/clb

161-15392-45
NOT RECORDED

17 FEB 27 1986

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FM SEATTLE (161B-2102)

TO DIRECTOR PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: 7/10/85,
WITHOUT FAIL.

RE BUREAU TELETYPE TO ALL OFFICES, DATED JUNE 29, 1985.

SEATTLE GENERAL INDICES REFLECTS A REFERENCE FOR THE APPOINTEE
HERBERT EUGENE ELLINGWOOD, SE 211-00-10, P. 2, WHICH IS THE CONTROL
FILE FOR PERSONS LISTED IN THE ETHICS IN GOVERNMENT ACT. FILE
REFLECTS APPOINTEE AS THE DEPUTY COUNCIL TO THE PRESIDENT IN 1981.

SEATTLE GENERAL INDICES NEGATIVE, REGARDING ALL OTHER RELATIVES
AS LISTED.

SEATTLE CONFIDENTIAL AND ELSUR INDICES ARE NEGATIVE, REGARDING
APPOINTEE AND RELATIVES.

SEATTLE GENERAL INDICES' CHECK WAS CONDUCTED BY [REDACTED]

[REDACTED] ON JULY 1, 1985. SEATTLE CONFIDENTIAL INDICES' CHECK WAS

CONDUCTED BY [REDACTED] ON JULY 1, 1985, AND SEATTLE ELSUR

INDICES' CHECK WAS CONDUCTED BY [REDACTED] ON JULY 2, 1985.

BT

Exec AD-Adm.	
Exec AD-Inv.	
Exec AD-LES	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
Ident.	
Inspection	
Intell.	
Laboratory	
Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgnt.	
Tech. Servs.	
Training	
Director's Sec'y	

General Applicant & Staff
TL 2/3

NOT RECORDED

17 FEB 27 1986

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Third Party

APR 1 1986

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M COLUMBIA (161-0)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10, 1985,
WITHOUT FAIL. (B)

RE BUREAU TELETYPE, JUNE 30, 1985, JULY 1, 1985, AND
JULY 4, 1985.

SEARCH OF COLUMBIA INDICES INDICATE FILE 211-00-8 AND
ELSUR FILES REVEALS NO RECORD REGARDING APPOINTEE OR
HIS LISTED RELATIVES. COLUMBIA ELSUR INDICES SEARCHED BY
ASSISTANT OSM [REDACTED]
ON JULY 3, 1985.

BT

RECEIVED
TELETYPE UNIT
8 JUL 85 21 51Z
FEDERAL BUREAU
OF INVESTIGATION

General [REDACTED] & Spin Room 5155

Exec. AD-Adm.
Exec. AD-Inv.
Exec. AD-LES
Asst. Dir.:
Adm. Serv.
Crim. Inv.

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Third Party

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FEDERAL BUREAU
OF INVESTIGATION

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

FM CHARLOTTE (161-0) (RUC)

TO DIRECTOR PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY

General Applicant & Spln Room 5155
TL 233

Director's Sec'y

RE BUREAU TELETYPES TO ALL FIELD OFFICES DATED JUNE 29, 1985
AND JULY 3, 1985.

THE CHARLOTTE OFFICE INDICES WERE SEARCHED BY COMPLAINT AND
SECURITY ASSISTANT [REDACTED] ON JUNE 30, 1985. THE ELSUR
AND SECURITY INDICES WERE SEARCHED BY FILE ASSISTANT [REDACTED]
ON JULY 2, 1985. ALL SEARCHES MET WITH NEGATIVE RESULTS IN REGARD
TO THE APPOINTEE AND APPOINTEE'S CLOSE RELATIVES.

NO REPORT BEING SUBMITTED BY CHARLOTTE, UACB.

BT

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Third Party

161-15392-49

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FEDERAL BUREAU
OF INVESTIGATION

FM BIRMINGHAM (161B-R-98) (RUC)

TO DIRECTOR PRIORITY

BT

UNCLAS

General Applicant
TL 233

Spill Room 5151

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10, 1985,

WITHOUT FAIL. (B)

RE BU TELETYPE TO ALL FIELD OFFICES, JUNE 30, 1985.

BH ELSUR INDICES NEGATIVE CONCERNING APPOINTEE, HIS CLOSE
RELATIVES AND PRESENT BUSINESS ESTABLISHMENT.

BH GENERAL INDICES CONTAIN REFERENCES ON MERIT SYSTEMS PROTECTION
BOARD, BUT THESE REFERENCES HAVE NO BEARING ON APPOINTEE.

BH ELSUR AND GENERAL INDICES SEARCHED BY IA [REDACTED]
JULY 7, 1985. SPIN.

BT

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Third Party

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FEDERAL BUREAU
OF INVESTIGATION

Exec. AD-Adm.	
Exec. AD-Inv.	
Exec. AD-LES	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
Ident.	
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Laboratory	
Legal Coun.	
Off. Cong. & Public Affs.	
Rec. Mgmt.	
Tech. Servs.	
Training	

FM OMAHA (161-1182 SERIAL 570)

TO DIRECTOR, FBI PRIORITY

BT

UNCLAS

General
TL 233

161-1182-5155
Director's Sec

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: 7/10/85,
WITHOUT FAIL. (B)

RE BUREAU TELETYPE TO ALL OFFICES DATED 6/29/85.

SEARCH OF GENERAL AND ELSUR INDICES OF THE OMAHA DIVISION
NEGATIVE RE APPOINTEE AND CLOSE RELATIVES. GENERAL INDICES SEARCHED
BY [REDACTED] ON 6/30/85. ELSUR INDICES SEARCHED BY

[REDACTED] ON 7/1/85.

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Third Party

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17 FEB 27 1986

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FM NEWARK (1612-3455-506) (PUC) (C-7)

TO DIRECTOR, FBI (PRIORITY)

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPIN; BUDED: JULY 16, 1985

RE: BUREAU TELETYPE TO ALL OFFICES, JUNE 28, 1985.

A REVIEW OF NEWARK INDICES AND ELSUR FILES WAS NEGATIVE FOR
APPOINTEE, HIS CLOSE RELATIVES, AND PRESENT BUSINESS ESTABLISHMENT,
AS OF JULY 5, 1985.

SA [REDACTED] HANDLED THIS MATTER.

BT

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Third Party

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57 APR 1 1986

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FEDERAL BUREAU
OF INVESTIGATION

General Applicant & Spn/Co 15155

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FM SAN ANTONIO (161B-1202-540) (RUC)

TO DIRECTOR ROUTINE

BT

UNCLAS E F T O

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10, 1985

REBUTEL TO ALL FBI OFFICES, DATED JUNE 29, 1985.

SAN ANTONIO GENERAL AND WOODMUR (MAJOR CASE 21) INDICES,
AS CHECKED BY FILE CLERK [REDACTED], JULY 5, 1985, CONTAIN
NO INFORMATION IDENTIFIABLE WITH APPOINTEE AND ALL CLOSE RELATIVES.

ELSUR AND INFORMANT INDICES, AS CHECKED BY FILE CLERK
[REDACTED], JULY 2, 1985, CONTAIN NO INFORMATION IDENTIFIABLE
WITH APPOINTEE AND ALL CLOSE RELATIVES.

INVESTIGATIVE SUPPORT INFORMATION SYSTEM (ISIS), AS CHECKED
BY FILE CLERK [REDACTED], JULY 3, 1985, CONTAIN NO INFORMATION
IDENTIFIABLE WITH APPOINTEE AND ALL CLOSE RELATIVES.

BT

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Third Party

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FEDERAL BUREAU
OF INVESTIGATION

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Exec. AD-LES	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Insp.	
Intell.	
Laboratory	
Legal Coun.	
Off. Cong. & Public Aff.	
Rec. Mgmt.	
Tech. Serv.	
Training	
Telephone Rm.	
Director's Sec'y	

General Applicant's Spin Room \$155
TL 217

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FM INDIANAPOLIS (161B-1615-487) RUC

TO DIRECTOR PRIORITY

BT

UNCLAS

ATTENTION: ROOM 5164.

HERBERT EUGENE ELLINGWOOD, SPIN. BUDED: JULY 1, 1985, WITHOUT
FAIL (B).

RE BUREAU TELETYPE TO ALL FBI FIELD OFFICES, JUNE 29,
1985.

ON JUNE 29, 1985, [REDACTED] SECURITY AND COMPLAINT
ASSISTANT, INDIANAPOLIS DIVISION, SEARCHED OFFICE INDICES AND
ADVISED NO IDENTIFIABLE INFO. AVAILABLE.

ON JULY 1, 1985, [REDACTED] FILE CLERK, INDIANAPOLIS
DIVISION, SEARCHED CONFIDENTIAL INDICES AND ADVISED NO IDENTIFIABLE
INFO. AVAILABLE.

ON JULY 2, 1985, [REDACTED] STAFFING ASSISTANT,
INDIANAPOLIS DIVISION, SEARCHED ELSUR FILES AND ADVISED NO
IDENTIFIABLE INFO. AVAILABLE.

BT

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8 JUL 85 21 36 Z
FEDERAL BUREAU
OF INVESTIGATION

General Applicant & Spin Room 5155

Exec. AD-Adm.	
Exec. AD-Inv.	
Exec. AD-LES	
Asst. Dir.:	
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Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgmt.	
Telephone Rm.	
Director's Sec'y	

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Third Party

161-15392-54

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17 FEB 27 1986

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FEDERAL BUREAU OF INVESTIGATION

Reporting Office	Office of Origin	Date	Investigative Period
RICHMOND	BUREAU	7/8/85	7/5/85
TITLE OF CASE		Report made by	Typed By:
HERBERT EUGENE ELLINGWOOD		IA [REDACTED]	jzg
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld		CHARACTER OF CASE	
		SPECIAL INQUIRY	
		b6 b7C Third Party	

REFERENCE: Bureau airtel to Alexandria dated 7/1/85.

ERUC

ADMINISTRATIVE:

Where appropriate, Privacy Act (e) (3) data was furnished to persons interviewed. Express promises of confidentiality, both limited and unlimited, have been noted where granted.

Accomplishments Claimed | ☒ | None

Case Has Been:

Pending Over One Year | ☐ | Yes | ☒ | No
Pending Prosecution
Over Six Months | ☐ | Yes | ☒ | No

Approved

Special Agent
in Charge

Do not write in spaces below

Copies made:

- 2 - Bureau (161-15392)
- 1 - Richmond (161B-R-2220)

NOT RECORDED

3 JUL 10 1985

1 copies to White House 7-16-85

Dissemination Record of Attached Report

Notations

Agency

Request Recd.

Date Fwd.

How Fwd.

By

COVER PAGE

206
57 APR 1 1986

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy To:

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b7C
Third Party

Report of: IA [REDACTED]
Date: July 8, 1985

Office: Richmond, Virginia

Field Office File #: 161B-R-2220

Bureau File #: 161-15392

Title: HERBERT EUGENE ELLINGWOOD

Character: SPECIAL INQUIRY

Synopsis: No traffic charges located for appointee at the
DEPARTMENT OF MOTOR VEHICLES, Richmond, Va.

-RUC-

DETAILS:

ARREST

On July 5, 1985, R. T. COCKER, Operator's License
Section, DEPARTMENT OF MOTOR VEHICLES, Richmond, Virginia, advised
the records of that agency are negative as to any traffic charges
for appointee.

This document contains neither recommendations nor conclusions of
the FBI. It is the property of the FBI and is loaned to your
agency; it and its contents are not to be distributed outside your
agency.

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RR HQ

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Q

FM NORFOLK (161B-1764)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10,

WITHOUT FAIL (B)

RE BUREAU TELETYPE, JUNE 29, 1985, AND BU AIRTEL, JULY 22, 1985.

ON JUNE 30, 1985, [REDACTED] CHECKED NORFOLK INDICES

ON JULY 1, 1985, [REDACTED] CHECKED ELSUR INDICES, AND

ON JULY 1, 1985, [REDACTED] CHECKED SECURE INDICES, ALL WITH

NEGATIVE RESULTS RE APPOINTEE; ALL LISTED MEMBERS OF HIS FAMILY, b6

AND HIS PRESENT EMPLOYER EXCEPT FOR NON-DEROGATORY INFORMATION b7C

REGARDING APPOINTEE CONTAINED IN RE BUREAU AIRTEL TO ALL SACS

ENTITLED "SPECIAL PROSECUTOR LEGISLATION."

NORFOLK CONSIDERS THIS MATTER RUC.

BT

57 APR 1 1986

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FEDERAL BUREAU
OF INVESTIGATION
(RUC)

General Applicant & Spin Room 5153
TL 233

Telephone Rm.
Director's Sec'y

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17 FEB 27 1986
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FM PHOENIX (161B-1845)

TO DIRECTOR (ROUTINE)

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 17,
1985, WITHOUT FAIL (B).

RE BUREAU TEL TO ALL OFFICES DATED JUNE 29, 1985, AND JULY
3, 1985.

ON JULY 5, 1985, THE OFFICE AND ELSUR INDICES OF THE PHOENIX
OFFICE WERE SEARCHED BY [REDACTED] AND [REDACTED]
[REDACTED] AND NO RECORDS WERE LOCATED ON THE APPLICANT AND
APPLICANT'S RELATIVES WITH THE EXCEPTION THAT PHOENIX INDICES
HAS A LISTING FOR HERBERT E. ELLINGWOOD, PX 211-00-7, PAGE 3,
WHICH CANNOT BE IDENTED TO APPOINTEE, HERBERT EUGENE ELLINGWOOD.
PHOENIX INDICES ALSO HAS TWO LISTINGS FOR THE PRESENT BUSINESS
ESTABLISHMENT, MERIT SYSTEMS PROTECTION BOARD, WASHINGTON, D.C.,
WHICH ARE IDENTICAL WITH PX 1-351-696, WHICH IS BUREAU AIRTEL

Exec. AD-Adm.	
Exec. AD-Inv.	
Exec. AD-LES	
Asst. Dir.:	
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Crim. Inv.	
Ident.	
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Laboratory	
Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgmt.	
Tech. Servs.	
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Director's Sec'y	

General [REDACTED] & Spl. Room 5155
TL 233

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Third Party

57 APR 1 1986

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NOT RECORDED

17 FEB 27 1986

161-15392-57

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PAGE TWO (161B-1845) (RUC)

MAY 1, 1980, AND PHOENIX 66-458, APPEAL MATTERS.

BT

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FEDERAL BUREAU
OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

FM HOUSTON (161B-1548-352) (RUC)

TO DIRECTOR, FBI ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY; BUDED:
WITHOUT FAIL (B)

JULY 17, 1985
General [unclear] Spin Room 5133
TL 233

RE BUREAU TELETYPE TO ALL OFFICES, JUNE 29, 1985 AND JULY 3,
1985.

ON JULY 8, 1985, THE HOUSTON DIVISION GENERAL INDICES WERE
CHECKED BY INVESTIGATIVE ASSISTANT [REDACTED] THE CONFI-
DENTIAL FILES WERE REVIEWED BY CONFIDENTIAL FILE CLERK [REDACTED]
[REDACTED] AND THE ELSUR FILES WERE CHECKED BY ASSISTANT ELSUR
COORDINATOR [REDACTED] CONCERNING THE APPOINTEE, HERBERT
EUGENE ELLINGWOOD, HIS CLOSE RELATIVES AND HIS PRESENT BUSINESS
ESTABLISHMENT WITH NEGATIVE RESULTS.

SPIN

BT

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Third Party

161-15392-58

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17 FEB 27 1986

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FEDERAL BUREAU
OF INVESTIGATION

FM OKLAHOMA CITY (161B-R-1234-183) (RUC)

TO DIRECTOR, FBI ROUTINE

BT

UNCLAS

General Applicant & Room 5155
JL 233

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 17, 1985,
WITHOUT FAIL. (B)

RE BUREAU TELETYPE TO ALL FIELD OFFICES, JUNE 29, 1985.

ON JUNE 30, 1985, SPC [REDACTED] OKLAHOMA CITY DIVISION,
CHECKED GENERAL INDICES FOR APPOINTEE AND CLOSE RELATIVES: FILE
CLERK [REDACTED] REVIEWED CONFIDENTIAL INDICES FOR APPOINTEE
AND CLOSE RELATIVES ON JULY 6, 1985; [REDACTED] FILE ASSISTANT,
SEARCHED THE ELSUR FILES ON JULY 8, 1985, FOR APPOINTEE AND CLOSE
RELATIVES: [REDACTED] ISIS, MADE ISIS NAME CHECK FOR
APPOINTEE AND CLOSE RELATIVES ON JULY 3, 1985.

ALL FILES CHECKED NEGATIVE WITH EXCEPTION OF OKLAHOMA CITY
GENERAL INDICES SHOW REFERENCE TO APPOINTEE TO OKLAHOMA CITY FILE
66-3030.

A REVIEW OF OC 66-3030 SHOWS APPOINTEE ON A LIST OF PERSONS
COVERED BY TITLE VI OF THE ETHICS IN GOVERNMENT ACT OF 1978.

BT

NOT RECORDED
17 FEB 27 1986

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FEDERAL BUREAU
OF INVESTIGATION

FM LOS ANGELES (161B-5224) (C-2) (RUC)

TO DIRECTOR PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPEICAL INQUIRY, BUDED: JULY 10, 1985,
WITHOUT FAIL.

General Assistant & Spin Room 5155

RE BUREAU TELETYPE TO ALL FIELD OFFICES, DATED JUNE 29, 1985.

ON THE DATES INDICATED, THE FOLLOWING RECORDS OF THE
LOS ANGELES DIVISION WERE SEARCHED BY THE NAMED FBI PERSONNEL.
NO RECORD WAS LOCATED IDENTIFIABLE WITH THE APPOINTEE OR
THE APPOINTEE'S LISTED ADULT RELATIVES, OR, IF THERE WAS
A RECORD, IT DID NOT CONTAIN ANY DEROGATORY INFORMATION:

CRIMINAL INFORMANT INDICES CHECKED ON JULY 1, 1985, BY
SUPPORT PERSON (SP) [REDACTED]

b6
b7C
Third Party

GENERAL INDICES CHECKED ON JULY 3, 1985, BY SP [REDACTED]

EL SUR RECORDS CHECKED ON JULY 3, 1985, BY SP [REDACTED]

NOT RECORDED

17 FEB 27 1986

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PAGE TWO (LA 161B-5224) UNCLAS

ORANGE COUNTY SHERIFF'S OFFICE AND BREA POLICE DEPARTMENT, WHICH COVERS [REDACTED] CHECKED ON JULY 5, 1985, BY INVESTIGATIVE ASSISTANT (IA) [REDACTED]

b6

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Third Party

ADMINISTRATIVE:

ALL INDIVIDUALS CONTACTED WERE APPRISED OF THE PROVISIONS OF THE PRIVACY ACT AND THOSE REQUESTING CONFIDENTIALITY HAVE BEEN SO NOTED.

BT

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PP HQ

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9 JUL 85 20 43Z

FM KNOXVILLE (161B-1183) (RUC)

FEDERAL BUREAU
OF INVESTIGATION

TO DIRECTOR PRIORITY

BT

UNCLAS

General Appointments Spin Room 5155
AL 233

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: 7/10/85, WOF (B)

REBUTEL, 6/29/85.

ON DATES INDICATED, FOLLOWING KNOXVILLE INDICES CHECKED AND
NO INFO RE APPOINTEE OR LISTED RELATIVES LOCATED:

(1) GENERAL INDICES, CHECKED BY FC [REDACTED] 7/1/85.

(2) I FORMANT AND ELSUR INDICES, CHECKED BY [REDACTED] 7/2/85.

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

Encls. 09-100.
Encls. 09-100.
Asst. Dir.:
Adm. Serv.
Crim. Inv.
Ident.
Insp.
Intell.
Laboratory
Legal Coun.
Off. of Cong. & Public Affairs
Rec. Mgmt.
Tech. Serv.
Training
Telephone Rm.
Director's Sec'y

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Third Party

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161-15392-61

NOT RECORDED

17 FEB 27 1986

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General [Signature] & Spin Room 5155
TL 233

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PP HQ

DE SD

P 092227Z JUL 85

FM SAN DIEGO (161B-R-93) (RUC)

TO DIRECTOR PRIORITY

BT

UNCLAS E F T O

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 17, 1985,

WITHOUT FAIL (B).

REBUTEL TO ALL OFFICES, JUNE 29, 1985.

THE NAMES OF THE APPOINTEE AND CLOSE RELATIVES WERE SEARCHED
BY THE FOLLOWING INDIVIDUALS, WITH NEGATIVE RESULTS:

GENERAL INDICES, IA [REDACTED] JULY 8, 1985; ASSET
INDICES, [REDACTED] JULY 1, 1985; ISIS INDICES NOT
REQUIRED, PER [REDACTED]; ELSUR INDICES, [REDACTED]
JULY 2, 1985.

BT

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Third Party

161-15392-02

NOT RECORDED

17 FEB 27 1986

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7/1/85
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0013 1902239Z

RR HQ

DE SL

R 092206Z JUL 85

FM ST. LOUIS (161B-1)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY (B); BUDED: JULY 17, 1985.

REBUTELS TO ALL OFFICES, JUNE 29 AND JULY 3, 1985.

General Applicant Spin Room 5155
TL 233

WHERE APPROPRIATE, PRIVACY ACT (E) (3) DATA WAS FURNISHED TO PERSONS INTERVIEWED. EXPRESS PROMISES OF CONFIDENTIALITY, BOTH LIMITED AND UNLIMITED, HAVE BEEN NOTED WHERE GRANTED.

ON JULY 8, 1985, SEARCH OF ST. LOUIS DIVISION GENERAL INDICES BY MAIL AND FILE CLERK [REDACTED] DISCLOSED ELLINGWOOD SUBJECT OF PRIOR SPIN INVESTIGATION IN APRIL, 1981, WHEREIN ST. LOUIS CONDUCTED REVIEW OF APPOINTEE'S MILITARY RECORDS AT FRC-M, ST. LOUIS, MISSOURI. NO DEROGATORY INFORMATION DEVELOPED AND OTHER INFORMATION NOT SHOWN. CHECK OF ST. LOUIS DIVISION ELSUR INDEX BY FILE ASSISTANT [REDACTED] ON JULY 9, 1985, NEGATIVE FOR

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Third Party

161-15392-103
NOT RECORDED

17 FEB 27 1986

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PAGE TWO SL 161B-I UNCLAS

ELLINGWOOD.

ON JULY 8, 1985, SEARCH OF ST. LOUIS DIVISION GENERAL INDICES
BY MAIL AND FILE CLERK [REDACTED] AND ON JULY 9, 1985,

SEARCH OF ST. LOUIS DIVISION ELSUR INDEX BY FILE ASSISTANT [REDACTED]

[REDACTED] NEGATIVE FOR CLOSE RELATIVES AND PRESENT BUSINESS ESTABLISH-

MENT.

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Third Party

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RECEIVED
TELETYPE UNIT

DN0009 1900108Z

RR HQ

DE DN

R 090108Z JUL 85

FM DENVER (161B-RC) (RUC)

TO DIRECTOR

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 10, 1985,
WITHOUT FAIL (B)

REBUTEL TO DN, DATED JUNE 30, 1985.

General App. & Spin Room 5155
TL 233

ON JULY 7, 1985, GENERAL INDICES CHECKED BY CLERK [REDACTED]

[REDACTED] AND ELSUR INDICES CHECKED BY CLERK [REDACTED]

[REDACTED] WITH NEGATIVE RESULTS REGARDING APPOINTEE AND CLOSE

RELATIVES.

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NOT RECORDED

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R 1901800Z JUL 85

FM SACRAMENTO (161B-785)(P)

TO DIRECTOR ROUTINE (161-15392)

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPIN, BUDED JULY 10, 1985

RE BUTEL TO ALL OFFICES, JUNE 30, 1985.

A SEARCH OF OFFICE INDICES BY [REDACTED] JULY 5, 1985

AND ELSUR/SPECIAL INDICES BY [REDACTED] ON JULY 8, 1985,

CONCERNING APPOINTEE AND CLOSE RELATIVES WAS NEGATIVE AT

SACRAMENTO DIVISION.

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10 JUL 85 03 45 Z
FEDERAL BUREAU
OF INVESTIGATION

Mr. AD-Adm.	
Mr. AD-Inv.	
Mr. AD-LES	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
Ident.	
Inspection	
Intell.	
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Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgmt.	
Tech. Servs.	
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Telephone Rm.	
Director's Sec'y	

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OPM JACKSONVILLE (161B-R-108) (RUC)

TO DIRECTOR, FBI PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED:

1985. WOF (B)

RE BUREAU TELETYPES DATED JUNE 29, 1985, AND
JULY 3, 1985.

ON JULY 9, 1985, A REVIEW OF THE JACKSONVILLE
GENERAL INDICES, CONFIDENTIAL INDICES AND ELSUR INDICES FAILED
TO REVEAL ANY UNFAVORABLE INFORMATION CONCERNING APPOINTEE,
CLOSE RELATIVES AND PRESENT BUSINESS ESTABLISHMENT. ISIS
CHECKS (PENDING/ARCHIVED) NOT REQUIRED.

ADMINISTRATIVE:

JACKSONVILLE CHECKS CONDUCTED BY IA [REDACTED] AND

FA [REDACTED]

BT

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Exec AD-Adm.	
Exec AD-Inv.	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
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Inspection	
Intell.	
Laboratory	
Legal Coun.	
Off. Cong. & Public Affs.	
Rec. Mgmt.	
Tech. Servs.	
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Director's Sec'y	

General Application Spn Room 5155
JL 233

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Third Party

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17 FEB 27 1986

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Memorandum

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld



To : DIRECTOR, FBI

Date 7/10/85

From : SAC, SAN JUAN (161B-930) (RUC)

Subject : HERBERT EUGENE ELLINGWOOD,
SPECIAL INQUIRY;
BUDED: 7/17/85, WITHOUT FAIL (B)

Re Bureau teletype to all offices dated 7/3/85.

The following listed indices were searched in reference to the appointee, close relatives, and present business establishment with negative results. Listed below are the San Juan Office personnel who conducted these searches:

General

Confidential

Elsur



7/3/85

7/3/85

7/3/85

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Third Party

It is noted that San Juan file 66-1242 is an administrative file entitled "Merit Systems Protection Board (MSPB) Appeal Matters."

② - Bureau ~~on destroyed~~
1 - San Juan

BAS/jmb
(3)

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE SAN FRANCISCO	OFFICE OF ORIGIN BUREAU	DATE 7/10/85	INVESTIGATIVE PERIOD 7/5/85 - 7/08/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY SA 	TYPED BY mas
		CHARACTER OF CASE SPECIAL INQUIRY	

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAU/STP/cld

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Third Party

REFERENCE:

Bureau tel to San Francisco, dated June 29, 1985.

- RUC -

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES			

APPROVED *RS6/D/3* SPECIAL AGENT
IN CHARGE

COPIES MADE:

- ② - Bureau (161-15392)
1 - San Francisco (161B-3605)

1 copies to White House 7-24-85

DO NOT WRITE IN SPACES BELOW

161-15392-108

NOT RECORDED

17 FEB 27 1986

Dissemination Record of Attached Report

Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations

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57 APR 1 1986

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

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Third Party

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

Copy to:

Report of:

Date:

7/10/85

Office: SAN FRANCISCO

Field Office File #:

SF 161B-3605

Bureau File #:

Title:

HERBERT EUGENE ELLINGWOOD

Character:

SPECIAL INQUIRY

Synopsis:

Criminal and arrest checks for Applicant and Applicant's relatives were negative at Monterey County and Santa Cruz County, California, law enforcement agencies. Monterey County, California, Sheriff's Office records at Salinas, California, revealed that AL ELLINGWOOD, born September 15, 1934, was arrested August 24, 1981, by the Monterey County Sheriff's Office while driving under the influence and the records reflect no disposition of the matter.

- RUC -

SF 161B-3605
TJS/mas

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Third Party

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COURT RECORD CHECK

The following investigation was conducted by Special Agent :

IN MONTEREY COUNTY, CALIFORNIA:

On 6/27/85 BOBBIE FANNING, Monterey County Sheriff's Office, Salinas, California, advised that they would have no record of a minor incident like taking of undersized clams, dating back to 1971. FANNING advised that the Department of Justice records in California are purged every seven to ten years on minor charges like this. FANNING stated however, that her indices contained no information identifiable with the Applicant.

SF 161B-3605
TJS/mas

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Third Party.

CRIMINAL AND ARREST CHECK

The following investigation was conducted by Special Agent [REDACTED]

AT MONTEREY, CALIFORNIA:

On 7/8/85 DEBBIE CONTINI, Monterey County Sheriff's Office records, Salinas, California, advised that an AL ELLINGWOOD, date of birth May 19, 1938, was arrested on August 24, 1981, by the Monterey County Sheriff's Office for driving under the influence and the records reflect no disposition of this matter.

The following investigation was conducted by Special Agent [REDACTED]

AT SANTA CRUZ, CALIFORNIA:

On 7/8/85 VIVIAN NAKAYAMA of the Santa Cruz County Sheriff's Office, Santa Cruz, California, advised that their records reflect no criminal record or arrest for an EDITH ARLENE ELLINGWOOD, date of birth March 12, 1900, or a MILDRED CHAPMAN, date of birth 9/29/28, mother and sister of the Applicant respectively.

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE MILWAUKEE	OFFICE OF ORIGIN BUREAU	DATE 7/11/85	INVESTIGATIVE PERIOD 7/1 - 3/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY JA [REDACTED]	TYPED BY bkc
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld		CHARACTER OF CASE SPIN	b6 b7C Third Party

REFERENCE

Bureau teletype to all offices dtd 6/29/85; MI teletype to the Bureau 7/5/85; and Bureau teletype to all offices 7/4/85.

(-RUC-)

ADMINISTRATIVE

Where appropriate, Privacy Act (e) (3) data was furnished to persons interviewed. Express promises of confidentiality, both limited and unlimited, have been noted where granted.

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO		
CONVIC.	PRETRIAL DIVERSION	UG.	FINES	SAVINGS	RECOVERIES					
APPROVED <i>[Signature]</i>						SPECIAL AGENT IN CHARGE			DO NOT WRITE IN SPACES BELOW	
COPIES MADE: ② Bureau <i>be destroyed</i> 1 - Milwaukee (161B-R-90)						161-15392-69				
						NOT RECORDED				
						2 JUL 17 1985				
						<i>[Signature]</i>				
Dissemination Record of Attached Report						Notations				
Agency										
Request Recd.										
Date Fwd.										
How Fwd.										
By										

57 APR 1 1986

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COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

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Third Party

Copy to:

Report of: IA [REDACTED]
Date: JULY 11, 1985
Field Office File #: MI 161B-R-90
Title: HERBERT EUGENE ELLINGWOOD

Office: MILWAUKEE

Bureau File #:

Character: SPECIAL INQUIRY

Synopsis: Milwaukee indices negative.

-RUC-

Details:

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Third Party

MISCELLANEOUS

On July 1, 1985, Field Support Account [REDACTED] checked the Electronic Surveillance indices and Analyst [REDACTED] checked the Milwaukee Organized Crime Information System, and on July 3, 1985, Investigative Assistant [REDACTED] checked the general indices of the Milwaukee Office without locating any information identifiable with appointee, any members of his family or present business establishment.

RECEIVED
TELETYPE UNIT

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FEDERAL BUREAU
OF INVESTIGATION

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FM HONOLULU (161-654) (RUC)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: JULY 10,
1935, WITHOUT FAIL (B).

General Applicant's Room 5155

REFERENCE BUREAU TELETYPE DATED JUNE 29, 1985. TL 233

GENERAL OFFICE AND ELSUR INDICES CONTAIN NO IDENTIFIABLE
INFORMATION REGARDING APPLICANT OR THOSE IMMEDIATE FAMILY MEMBERS
LISTED IN REFERENCED TELETYPE.

IN ADDITION, GENERAL OFFICE AND ELSUR INDICES NEGATIVE
REGARDING APPLICANT'S EMPLOYMENT FIRM.

GENERAL OFFICE INDICES SEARCH CONDUCTED ON JUNE 30, 1985,

BY SCA [REDACTED]

ELSUR INDICES SEARCH CONDUCTED ON JULY 1, 1985, BY FC

[REDACTED]

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Third Party

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FM LITTLE ROCK (161-0-621)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED:

JULY 17, 1985,

General Appoint: Spln Room 5155

TL 233

WITHOUT FAIL. (B)

RE BUREAU TELETYPES TO ALL OFFICES, DATED JUNE 29, 1985, AND

JULY 3, 1985.

THE LITTLE ROCK INDICES WERE NEGATIVE RB-4\$?!)! -0098,533 -, \$

:93 43)-58;3, AS SEARCHED BY RC

(JUNE 30,

1985), AEC

(JULY 1, 1985), AND SCA

(JULY 3, 1985).

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Third Party

Exec. AD-Adm.	
Exec. AD-Inv.	
Exec. AD-LES	
Asst. Dir.:	
Adm. Servs.	
Crim. Inv.	
Ident.	
Inspection	
Intell.	
Laboratory	
Legal Coun.	
Off. of Cong. & Public Affs.	
Rec. Mgmt.	
Tech. Servs.	
Training	
Telephone Rm.	
Director's Sec'y	

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAW/STP/clb

57 APR 1 1986

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17 FEB 27 1986

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE LOS ANGELES	OFFICE OF ORIGIN BUREAU	DATE 7/12/85	INVESTIGATIVE PERIOD 7/12/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY SA 	TYPED BY grj
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld		CHARACTER OF CASE SPECIAL INQUIRY b6 b7C Third Party	

REFERENCE: Washington Field teletype to Los Angeles, dated 7/3/85.

- RUC -

ADMINISTRATIVE:

All individuals contacted were apprised of the provisions of the Privacy Act and those requesting confidentiality have been so noted.

ACCOMPLISHMENTS CLAIMED					NONE	ACQUIT-TALS	CASE HAS BEEN:
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES		
							PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
APPROVED <i>[Signature]</i>					SPECIAL AGENT IN CHARGE		
COPIES MADE:					DO NOT WRITE IN SPACES BELOW		
② - Bureau 1 - Los Angeles (161B-5224)(C-2)					161-15392-72 NOT RECORDED 2 JUL 19 1985		
1 copies to White House <u>7-26-85</u>							
Dissemination Record of Attached Report					Notations		
Agency					<i>[Handwritten: 65-446]</i>		
Request Recd.							
Date Fwd.							
How Fwd.							
By							

5 APR 1 1986

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to:

Report of:

[REDACTED]

Office: Los Angeles, California

Date:

July 12, 1985

Field Office File #:

161B-5224

Bureau File #:

Title:

HERBERT EUGENE ELLINGWOOD

Character:

SPECIAL INQUIRY

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Third Party

Synopsis:

Reference contacted and favorably
recommends.

- RUC -

DETAILS:REFERENCE

On July 12, 1985, WILLIAM FRENCH SMITH, (213) 229-7560, was contacted by SA [REDACTED] SMITH advised he has known appointee since the 1960's, but his knowledge of appointee has been limited to a few "shoulder-rubbing" occasions. SMITH knew nothing of a derogatory nature regarding appointee's character and has never known appointee to express any bias or prejudice against any class of citizen or any religious, racial or ethnic group. To SMITH's knowledge, all of appointee's associates are of good character and reputation. SMITH was unaware of any drug use or alcohol abuse on the part of appointee and knew nothing of a derogatory nature concerning appointee's reputation. SMITH has no reason to question appointee's loyalty to the United States and has no reason not to recommend appointee for this position.

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FEDERAL BUREAU
OF INVESTIGATION

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FM PHILADELPHIA (161-4452)(SQ11)(RUC)

TO DIRECTOR PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: JULY 17, 1985.

RE BUREAU TELETYPE DATED JUNE 29, 1985.

General Applicant & Spln Room 5155
TL 233

GENERAL INDICES AND ELSUR CHECKS WERE NEGATIVE REGARDING
THE APPOINTEE, RELATIVES AND PRESENT BUSINESS ESTABLISHMENT.

GENERAL INDICES CHECK CONDUCTED BY SE [REDACTED], AND ELSUR

CHECK CONDUCTED BY SE [REDACTED]

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Third Party

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FM FBI NEW YORK (161-B-R583) (RUC) (A-4)

TO DIRECTOR FBI PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: JULY 10, 1985

REBUTEL TO ALL FIELD OFFICES, JUNE 30, 1985.

A REVIEW OF NEW YORK GENERAL INDICES ON JULY 8, 1985, REVEALED NO IDENTIFIABLE INFORMATION REGARDING APPOINTEE OR MEMBERS OF THE FAMILY.

A CHECK OF ELSUR INDICES ON JULY 9, 1985, BY SUPPORT EMPLOYEE

PROVED NEGATIVE REGARDING APPOINTEE OR MEMBERS OF THE

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Third Party

161-15392-74

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FEDERAL BUREAU
OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAU/STP/cld

General Applicant & Spin Room 5155
TL 293

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FAMILY.

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Third Party

ISIS, NYO CHECKED BY SUPPORT EMPLOYEE, [REDACTED] ON
JULY 8, 1985, REVEALED NO INFORMATION IDENTIFIABLE WITH APPOINTEE OR
MEMBERS OF THE FAMILY.

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FEDERAL BUREAU
OF INVESTIGATION

FM DETROIT (161B-2625-5)(C-4)

TO DIRECTOR (PRIORITY)

BT

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HERBERT EUGENE ELLINGWOOD; SPIN; BUDED: JULY 17, 1985, WOF (B)

General Applicant Room 515B
IL 233

RE BUREAU TELETYPES TO ALL FIELD OFFICES DATED

JUNE 29, 1985, AND JULY 3, 1985.

DETROIT INDICES CHECKS PERFORMED ON JULY 9, 1985,
BY CLERK [REDACTED] REGARDING APPOINTEE AND
CLOSE RELATIVES REVEALED NO RECORD.

ON JULY 9, 1985, DETROIT ELSUR CHECKS PERFORMED
BY CLERICAL EMPLOYEE [REDACTED] REVEALED NO
RECORD REGARDING APPOINTEE AND CLOSE RELATIVES.

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Exec AD-Adm.	
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General Macdonald R. Spivey Room 542
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FEDERAL BUREAU OF INVESTIGATION

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 Director's Sec'y _____

RR HQ.

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FM PORTLAND. (161-R-60) (RUC

TO DIRECTOR ROUTINE

~~BT~~

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: JULY 17,
1985, WITHOUT FAIL (B).

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Third Party

RE BUREAU TELETYPE TO ALL OFFICES, JUNE 29, 1985.

PORTLAND AND ELSUR INDICES WERE NEGATIVE REGARDING
APPOINTEE, CLOSE RELATIVES, AND CURRENT EMPLOYMENT AS SEARCHED
BY FILE CLERK [REDACTED] ON JULY 11, 1985.

SINCE THERE IS NO OTHER PORTLAND INVESTIGATION, NO REPORT WILL BE SUBMITTED.

BT

57 APR 1 1988

SECRET

161-15392-76
NOT RECORDED
17 FEB 27 1986

6-9-82

destroyed APR 1 1986
NNNN 206

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE INDIANAPOLIS	OFFICE OF ORIGIN BUREAU	DATE 7/15/85	INVESTIGATIVE PERIOD 7/10/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY SA 	TYPED BY /pal
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld		CHARACTER OF CASE SPECIAL INQUIRY b6 b7C Third Party	

REFERENCE: WFO teletype to IP, 7/3/85.

RUC-

ADMINISTRATIVE:

All persons contacted were advised of the provisions of the Privacy Act and those requesting confidentiality have been so noted.

Indianapolis Division indices, elsur files and confidential indices were searched and no identifiable information located regarding appointee or his relatives.

Indices reveal appointee's reference was the subject of a SPIN in 4/81.

ACCOMPLISHMENTS CLAIMED <input type="checkbox"/> NONE						ACQUIT-TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES		
APPROVED <i>JCM/wb</i> COPIES MADE: ② - Bureau (Room 5161) 1 - Indianapolis (161B-1744)						SPECIAL AGENT IN CHARGE	
DO NOT WRITE IN SPACES BELOW 161-15392-78 NOT RECORDED 17 FEB 27 1986							
Dissemination Record of Attached Report						Notations	
Agency							
Request Recd.							
Date Fwd.							
How Fwd.							
By	<i>JCM</i>						

57 APR 1 1986

COVER PAGE A*

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

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Third Party

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

Copy to:

Report of:

SA [REDACTED]

Office:

INDIANAPOLIS

Date:

July 15, 1985

Field Office File #:

161B-1744

Bureau File #:

Title:

HERBERT EUGENE ELLINGWOOD

Character:

SPECIAL INQUIRY

Synopsis:

Individual interviewed highly recommended appointee.

-RUC-

DETAILS:

REFERENCE

On July 10, 1985, PETER J. RUSTHOVEN, Attorney, Barnes and Thornburg, 1313 Merchants Bank Tower, Indianapolis, Indiana, advised the following information concerning his knowledge of the appointee. They both worked in the Office of the Counsel to the President from approximately March, 1981 to December, 1981; the appointee being a Deputy Counsel and the contributor an Associate Counsel. Although assigned to the same office, he termed their contact infrequent, and primarily limited to business matters. In the office most of the eight or nine attorneys were busy with their own cases, and seldom worked directly with another. He described the appointee as a fine Christian gentleman. The appointee was said to be of fine character and to have a high degree of integrity. His reputation among his associates was believed outstanding. Although the appointee and he shared a very limited social acquaintance, he was confident that the appointee does not use drugs or abuse alcohol. He was unaware of any unfavorable information which may have indicated to him the appointee held any type of racial, ethnic or religious biases,

IP 161B-1744

and believed his record as Chairman of the Merit Systems Protection Board would back this statement. He further believed the appointee unquestionably loyal to the United States Government. The contributor advised he had complete confidence and no reservations in recommending the appointee for a position of trust with the United States Government.

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FEDERAL BUREAU
OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

FM KANSAS CITY (161B-1466-308)(SQ. 4)

TO DIRECTOR ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED JULY 17, 1985,

WITHOUT FAIL (B)

RE BUTEL TO ALL FBI OFFICES DATED JUNE 29, 1985.

FOR INFORMATION BUREAU, KANSAS CITY GENERAL OFFICE INDICES
AND ELSUR FILES NEGATIVE REGARDING APPOINTEE, CLOSE RELATIVES, AND
PRESENT BUSINESS ESTABLISHMENT. FOR INFORMATION, KANSAS CITY GENERAL
INDICES CHECKED JULY 12, 1985, BY [REDACTED] KANSAS CITY
ELSUR FILES CHECKED JULY 12, 1985, BY [REDACTED]

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Third Party

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57 APR 1 1986

cc destroyed

161-15392-79
NOT RECORDED

17 FEB 27 1986
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OF INVESTIGATION
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RR HQ

DE SF 005

R 162132Z JULY 85

FM SAN FRANCISCO (161B-3605)(P)(SQUAD 6)

TO DIRECTOR (ROUTINE)

BT

U N C L A S

General Applicant & Spin Room 5155
TL 233

HERBERT EUGENE ELLINGWOOD; SPIN; BUDED: JULY 17, 1985, WOF (B)

REBUTEL, JUNE 30, 1985.

ISIS CHECKED ON JULY 2, 1985, BY CLERK [REDACTED]

ELSUR INDICES, CHECKED ON JULY 5, 1985, BY CLERK [REDACTED] AND

OFFICE INDICES, CHECKED ON JUNE 30, 1985, BY CLERK [REDACTED]

WERE ALL NEGATIVE REGARDING APPOINTEE AND HIS RELATIVES SINCE LAST
SPIN INVESTIGATION.

BT

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Third Party

161-15392-80

NOT RECORDED

17 FEB 27 1986

6 JRE

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57 APR 1 1986

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE JACKSON	OFFICE OF ORIGIN BUREAU	DATE 7/16/85	INVESTIGATIVE PERIOD 7/1-10/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY IA [REDACTED]	TYPED BY RLC
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld		CHARACTER OF CASE SPIN	
		b6 b7C Third Party	

REFERENCES:

Bureau teletype to all offices 6/29/85 and 7/3/85;
 Jackson teletype to Bureau 7/12/85.

-RUC-

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CON VIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES			
								PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
APPROVED <i>Rxc/h</i>						SPECIAL AGENT IN CHARGE		
COPIES MADE:						DO NOT WRITE IN SPACES BELOW		
② - Bureau cc destroyed 1 - Jackson (161B-R-97)						161-15392 <i>81</i> NOT RECORDED 2 JUL 19 1985		
Dissemination Record of Attached Report						Notations		
Agency						<i>Spec. Agt.</i>		
Request Recd.								
Date Fwd.								
How Fwd.								
By								

57 APR 1 1986

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:

IA [REDACTED]

Office: JACKSON, MS

Date:

July 16, 1985

Field Office File #: JN 161B-R-97)

Bureau File #:

Title:

HERBERT EUGENE ELLINGWOOD

Character:

SPECIAL INQUIRY

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Third Party

Synopsis:

Review of indices of Jackson FBI office negative re appointee, his close relatives and present business establishment.

-RUC-

DETAILS:

The following investigation was conducted at Jackson, Mississippi:

On July 1, 1985, [REDACTED] searched general indices of the Jackson FBI office and located no information concerning the appointee, his close relatives and present business establishment. On July 8, 1985, [REDACTED] searched electronic surveillance indices, and on July 10, 1985, [REDACTED] searched informant indices, both with negative results.

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE ALEXANDRIA	OFFICE OF ORIGIN BUREAU	DATE 7/16/85	INVESTIGATIVE PERIOD 7/2/85 - 7/8/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld		REPORT MADE BY SA 	TYPED BY slf
		CHARACTER OF CASE SPIN b6 b7C Third Party	

REFERENCES: Bureau teletype to WFO, ET AL, dated June 29, 1985.

(RUC)

ADMINISTRATIVE:

All individuals contacted were apprised of the provisions of the Privacy Act, and those requesting confidentiality have been so noted.

(X)

ACCOMPLISHMENTS CLAIMED						<input checked="" type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO		
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES					
APPROVED 990/825						SPECIAL AGENT IN CHARGE			DO NOT WRITE IN SPACES BELOW	
COPIES MADE: 2-Bureau 1-Alexandria (161B-7785) " <u>1</u> copies to White House <u>7-26-85.</u> "						161-15392-82			NOT RECORDED 17 FEB 27 1986	
Dissemination Record of Attached Report						Notations				
Agency						6 JHE				
Request Recd.										
Date Fwd.										
How Fwd.										
By										

57 APR 1 1986

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATIONALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

Copy to:

Report of:

SA [REDACTED]
7/16/85

Office: Alexandria, Virginia

Date:

Field Office File #:

161B-7785

Bureau File #:

Title:

HERBERT EUGENE ELLINGWOOD

Character:

SPECIAL INQUIRY

Synopsis:

Neighborhood verified and favorable. Social acquaintance favorably recommends. Credit check satisfactory. Arrest checks negative. Details of interviews with ALEXANDRIA POLICE DEPARTMENT, Director, U. S. DISTRICT COURT Judge, BAR ASSOCIATION, President, NAACP, President, ARLINGTON COUNTY POLICE Chief, all set forth. Interview with references, details set forth.

-RUC-

DETAILS:NEIGHBORHOOD

The following investigation was conducted by SA [REDACTED]

6607 Briar Hill Court
McLean, Virginia
July, 1981 - Present

On July 2, 1985, ANN MARIE PETERS, 6609 Briar Hill Court, McLean, Virginia, advised that she has lived at this address for four years and met the appointee at that time. She described the appointee as a kind and unobtrusive neighbor. She added that he is very conservative and a religious person. PETERS has no reason to question the appointee's loyalty to the United States. She is unaware of any bias or prejudice that the appointee might possess. PETERS knew of no information that would reflect unfavorably on the character, reputation or associates of the appointee and knows of no alcohol abuse or drug use on his part.

AX 161B-7785

PETERS believed the appointee to be well versed in the law and finds him to be very dedicated and concerned about young people. She said that appointee is a man who loves his work. She concluded by highly recommending appointee for a position of trust and confidence with the UNITED STATES GOVERNMENT.

On July 8, 1985, JOYCE HUTCHINGS, 6610 Briar Hill Court, McLean, Virginia, advised that she has been at this address for four years and has known the appointee for the same. In the time she has known the appointee, HUTCHINGS finds him to be a responsible homeowner, he keeps his property up nicely, all in all, he is a fine neighbor. HUTCHINGS could think of no reason to question the appointee's loyalty to the United States. She is unaware of any prejudice or bias that the appointee might possess and has no knowledge of his qualifications as an attorney. She believed that the appointee has an impeccable reputation and knows of no unfavorable information regarding the character, reputation or associates of the appointee. She further is unaware of any alcohol abuse or drug use on the part of the appointee. HUTCHINGS stated that the appointee is a competent individual and could think of no reason not to recommend him for a position of trust and confidence with the UNITED STATES GOVERNMENT.

SOCIAL ACQUAINTANCE

The following investigation was conducted by SA at Arlington, Virginia:

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Third Party

On July 2, 1985, DOCTOR VERNON LESLIE GROSE, 1101 South Arlington Ridge Road, #1117, Arlington, Virginia (703) 685-0636, advised he has been a personal friend and social acquaintance of appointee since 1971. GROSE, having received his Doctor Degree in Science, was appointed by, then, California Governor, RONALD REAGAN, to serve on three committees between 1971 and 1974, which examined problems within the Law Enforcement community. It was during this time, while serving on the CALIFORNIA COUNCIL ON CRIMINAL JUSTICE, that GROSE met appointee. As an Administrator for the Council, appointee was responsible for allocating federal funds to Law Enforcement agencies received through the LAW ENFORCEMENT ADMINISTRATION Program. In addition, appointee served as Legal Affairs Secretary to then, California Governor, REAGAN. After REAGAN stepped down as Governor, appointee continued to work under California

AX 161B-7785

Attorney-General, EVELLE YOUNGER, unsuccessful, 1978 Republican candidate for Governor of California.

GROSE stated in March, 1981, following REAGAN's election to President of the United States, appointee accepted a position as Deputy **Counsel** to the President, in Washington, D.C. Approximately nine months later, appointee was made Chairman of the MERIT SYSTEM PROTECTION BOARD. GROSE advised, the Board, on the Judicial Justice side of the Office of Personnel Management, is responsible for handling federal employee discharge complaints and grievances.

GROSE stated he received a Presidential appointment to the NATIONAL TRANSPORTATION SAFETY BOARD, Washington, D.C., which enabled GROSE to continue his friendship and regular contact with appointee. GROSE's most recent professional contact with appointee centers around a 1983 Computer Utilization Contract awarded to OMEGA UNIVERSAL, INC., a company controlled by GROSE, awarded by the MERIT SYSTEM PROTECTION BOARD, under the Chairmanship of appointee. Currently, appointee is a member designate of the MERIT SYSTEM PROTECTION BOARD, awaiting confirmation.

GROSE described the appointee as a man of integrity, who is well recognized for that trait as a highly regarded attorney in California. Appointee has a sharp legal mind, having graduated from STANFORD LAW SCHOOL. GROSE stated appointee has a sense of justice, indicative of his background, who is committed to law and order concepts and personally lives up to those standards. GROSE is unaware of any writings published by appointee. Appointee is a speaker of wide breath on a variety of social and political issues. Appointee speaks regularly to church and other community groups, and is in particular demand to speak on the topic of "Spiritual Solutions to Political Problems". Having served the public for the past eighteen years, appointee has not practiced law privately, to GROSE's knowledge. GROSE deemed appointee to be a well rounded attorney, having been named "Man of the Year", in 1968, in Alameda County, California, for his efforts as a Prosecuting Attorney, coupled with appointee's most recent four years experience on the "defense side of the table", as the Administrative Officer of the MERIT SYSTEM PROTECTION BOARD. Among other legal awards appointee received, was recognition by the CALIFORNIA COUNCIL ON CRIMINAL JUSTICE. GROSE stated appointee's most notable accomplishment involved the recent handling of the Federal Air Traffic Controllers issue. Appointee successfully negotiated on behalf of the eight thousand displaced controllers without controversy or resultant law suits.

AX 161B-7785

Based on appointee's nationally recognized integrity, appointee is viewed with equal fairness by both advocates and opponents. GROSE described appointee as a good judge of persons, who uses subordinates well to carry out responsibilities. Appointee presents interesting ideas, is insightful, a very rational and unflappable person, who does not show excitability and never panics under stressful conditions. GROSE stated one of appointee's outstanding marks is his ability to efficiently manage without creating a feeling of oppression. Operations undertaken by appointee are run smoothly with little indication of how he gets the job done. GROSE advised appointee "does the job right the first time", but is very concerned about following up on unfinished business.

GROSE stated he has neither seen nor observed appointee consuming/abusing alcohol or using illegal drugs. All of appointee's friends and associates are of good character and reputation. GROSE stated there is absolutely no question as to appointee's loyalty to the country. Appointee is financially and mentally sound, has maintained a consistent lifestyle, and has never been arrested or been involved in civil litigation. GROSE characterized appointee's character and reputation as impeccable and could not **cite any derogatory** aspects.

Although appointee works long and hard hours, he takes time for his family. GROSE advised appointee is a strong, good family man, who runs a well ordered home. Appointee's son, THOMAS, is currently a student at **PEPPERDINE UNIVERSITY**, while the second son, BRUCE, is a U. S. MARINE stationed at CAMP PENDLETON, California. Appointee's wife, AUDREY, previously taught school for a number of years in the California School System, and is currently a volunteer at the WHITE HOUSE. Appointee is a god-fearing man, who is active in a local Fairfax interdenominational church (name unknown).

Being in a position of high visibility, appointee's personal and professional reputation can be attested to through the absence of media attack. Appointee is not **biased** or prejudice with respect to any race, religion or ethnic groups. Appointee has a great affection for the Chinese, and has traveled frequently to China. As an Intelligence Officer in the U. S. ARMY, during the 1950's, appointee lived in Austria for a number of years. Appointee is neither a member of any racially prejudiced organization, nor a member/supporter of any radical group. GROSE stated he is unaware of any outside business interests or property ownership involving appointee. GROSE advised that he is

AX 161B-10873

not familiar with appointee's civil rights views, however, believes appointee to be a strong supporter of individual rights as a result of his religious background.

GROSE stated he highly recommends appointee for the desired position with the Attorney General's office requiring this security clearance. GROSE advised appointee's career goals are to serve the public and are not politically motivated or geared for personal gain. In specific, GROSE left the prestigious Counsel's position at the WHITE HOUSE to accept the challenge at the MERIT SYSTEM PROTECTION BOARD, where appointee has done an excellent job.

Appointee is an active member of the Republican party, and a **stauch** supporter of PRESIDENT REAGAN and his policies.

Persons acquainted with appointee who would have had supervisory and/or **oversight responsibilities over appointee**, would include members of the CALIFORNIA APPELLATE COURT and members of the MERIT SYSTEM PROTECTION BOARD'S OFFICE OF SPECIAL **COUNSEL**.

CREDIT CHECK

On July 8, 1985, IA [] caused a search to be made of the files of the CREDIT BUREAU OF NORTHERN VIRGINIA, INC., Post Office Box 232, Manassas, Virginia, which covers the Washington Metropolitan Area, and was advised that the appointee has a satisfactory credit record.

ARREST CHECKS

On July 3, 1985, a computerized check of the CENTRAL CRIMINAL RECORDS EXCHANGE (CCRE), VIRGINIA STATE POLICE (VSP), Richmond, Virginia, failed to reflect any information identifiable with appointee, spouse, AUDREY ALICE KESLER, AUDREY ALICE ELLINGWOOD and son, THOMAS BARRY ELLINGWOOD. b6 b7C

Third Party

IA [] caused a search to be made of the files of the FAIRFAX COUNTY, VIRGINIA, POLICE DEPARTMENT, and was advised on July 3, 1985, that no record was located regarding appointee, spouse, AUDREY ALICE KESLER, AUDREY ALICE ELLINGWOOD, and son, THOMAS BARRY ELLINGWOOD.

INTERVIEW WITH ALEXANDRIA POLICE DEPARTMENT DIRECTOR

The following investigation was conducted by SA [] at Alexandria, Virginia:

AX 161B-7785

On July 2, 1985, CHARLES STROBEL, DIRECTOR, ALEXANDRIA POLICE DEPARTMENT, advised he has no knowledge of the appointee.

INTERVIEW WITH JUDGE, U. S. DISTRICT COURT

The following investigation was conducted by SA [REDACTED] at Alexandria, Virginia:

On July 7, 1985, the HONORABLE ALBERT V. BRYAN JR., Judge, U. S. DISTRICT COURT, for the Eastern District of Virginia, 200 S. Washington Street, advised that he has no knowledge of the appointee.

INTERVIEW WITH BAR ASSOCIATION PRESIDENT

On July 3, 1985, GWENDOLYN JO CARLBERG, President, ALEXANDRIA BAR ASSOCIATION, 420 South Washington Street, advised that she has no knowledge of the appointee.

INTERVIEW WITH NAACP PRESIDENT

The following investigation was conducted by SA [REDACTED] on July 2, 1985:

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Third Party

CASELL BUTLER, President, NAACP, 2417 2ND Street South, Arlington, Virginia, advised that he had no knowledge of appointee.

INTERVIEW WITH CHIEF OF POLICE

The following investigation was conducted by SA [REDACTED], on July 2, 1985:

WILLIAM K. STOVER, Chief, ARLINGTON COUNTY, POLICE DEPARTMENT, 2100 15TH Street North, Arlington, Virginia, advised that he had no knowledge of appointee.

REFERENCES

The following investigation was conducted by SA [REDACTED] at Fairfax, Virginia:

On July 2, 1985, JOHN E. GRANFIELD, Acting Chief of Police, Fairfax County, 10600 Page Avenue, Fairfax, Virginia, advised that he does not know the appointee.

RICHARD HORAN, Judge, FAIRFAX COUNTY GENERAL DISTRICT COURT, 4110 Chainbridge Road, Fairfax, Virginia, advised that he does not know the appointee.

CAN'T RECOGNIZE COMMAND ARGUMENTS.

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FORMS.TEXT HAS 1 DOCUMENT

INBOX.1 (#404)

TEXT:

EP0001 1981713

OO HQ

DE EP

O 171713Z JUL 85

FM EL PASO (161B-413-595)

TO DIRECTOR IMMEDIATE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY,

BUDED: JULY 17, 1985, WITHOUT FAIL. (B)

RE DIRECTOR TELETYPES TO ALL FIELD OFFICES, JUNE 29, 1985,
AND JULY 3, 1985.

ON JULY 3, 1985, [REDACTED] CONFIDENTIAL CLERK,
REVIEWED THE EL PASO DIVISION ELSUR AND SECURE INDICES WITH
NEGATIVE RESULTS RE CAPTIONED APPOINTEE AND HIS CLOSE
RELATIVES AS SET OUT IN REFERENCED BUREAU TELETYPE
DATED JUNE 29, 1985.

ON JULY 17, 1985, A REVIEW OF THE EL PASO DIVISION GENERAL
INDICES BY IA [REDACTED] FAILED TO REFLECT ANY INFORMATION
IDENTIFIABLE WITH CAPTIONED APPOINTEE AND HIS CLOSE RELATIVES.

BT

RECEIVED
TELETYPE UNIT

17 JUL 85

FEDERAL BUREAU
OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

General & Spin Room 5155
JUL 23 1985

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Third Party

161-15392-83

NOT RECORDED
17 FEB 27 1986

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57 AUG 1 1985
destroyed

FORMS.TEXT HAS 1 DOCUMENT

INBOX.1 (#403)

TEXT: DL0004 1981617Z

OO HQ

DE DL

O 17 1600Z JULY 85
FM FBI DALLAS (161B-1)

TO DIRECTOR FBI IMMEDIATE

BT

UNCLAS E F T O

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: 7/17/85, WITHOUT
FAIL.

RE BUREAU TELETYPES TO ALL OFFICES, DATED 6/25/85 AND 6/30/85.

NO RECORD OR IDENTIFIABLE INFORMATION LOCATED REGARDING
APPOINTEE AND APPOINTEE'S CLOSE RELATIVES AND BUSINESS ESTABLISHMENT,
AS LISTED ON REFERENCED TELETYPE, IN DALLAS OFFICE INDICES AND ELSUR
FILES.

REGULAR AND KENNEDY INDICES SEARCHED BY [REDACTED] ON
JULY 9, 1985; CONFIDENTIAL INDICES SEARCHED BY [REDACTED]
ON JULY 10, 1985; AND ELSUR INDICES SEARCHED BY [REDACTED] ON
JULY 9, 1985.

BT

#0004

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/clid

RECEIVED
TELETYPE UNIT

17 JUL 85

FEDERAL BUREAU
OF INVESTIGATION

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Miss Holmes	
Miss Gandy	

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Third Party

161-15392-84
NOT RECORDED
17 FEB 27 1986

JUL 11 3 03 PM '85

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION

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cc des. moved
57 APR 1 1986
(=MOVE IN)

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE SACRAMENTO	OFFICE OF ORIGIN BUREAU	DATE 7/17/85	INVESTIGATIVE PERIOD 7/5-16/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY SA [REDACTED]	TYPED BY SR
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/EAU/STP/cld		CHARACTER OF CASE SPIN b6 b7C Third Party	

REFERENCE

Bureau's teletype to Sacramento, 6/29/85.

-RUC-

ADMINISTRATIVE

All persons contacted were advised of the provisions of the Privacy Act. No requests for confidentiality were made. Sacramento indices reflect prior 161B-785 investigation conducted April, 1981.

ACCOMPLISHMENTS CLAIMED					<input checked="" type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES		
APPROVED <i>[Signature]</i> SPECIAL AGENT IN CHARGE						DO NOT WRITE IN SPACES BELOW	
COPIES MADE: 2 - Bureau 1 - Sacramento (161B-785)						161-15392-85 NOT RECORDED 12 JUL 22 1985	
" 1 copies to White House 7-24-85"							
Dissemination Record of Attached Report						Notations	
Agency						<i>[Signature]</i>	
Request Recd.							
Date Fwd.							
How Fwd.							
By							

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FBI/DOJ

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of InvestigationALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAU/STP/cld

Copy to:

Report of: SA [REDACTED]
Date: JULY 17, 1985

Office: SACRAMENTO, CALIFORNIA

b6
b7C

Third Party

Field Office File #: SC 161B-785

Bureau File #:

Title: HERBERT EUGENE ELLINGWOOD

Character: SPECIAL INQUIRY

Synopsis: Employment with STRAWBERRIES AND STUFF verified. Residences verified and neighbors highly recommend. Credit and arrest negative. Newspaper library advised numerous articles regarding appointee. No liens or covenants against property owned by appointee.
-RUC-

DETAILS:EMPLOYMENTSTRAWBERRIES AND STUFF

On July 10, 1985, a check of the records of the CALIFORNIA SECRETARY OF STATES OFFICE determined STRAWBERRIES AND STUFF is a California corporation in good standing having been incorporated on February 14, 1980. President and agent is listed as HERBERT E. ELLINGWOOD and address for agent and the business is listed as 921 11th Street, Suite 110, Sacramento, California. STRAWBERRIES AND STUFF has corporate number 975330 and statement of officers number 84-416389.

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NEIGHBORHOOD

5629 Maple Ridge Court
Rocklin, California

On July 5, 1985, TELFORD MARSH, 5629 Maple Ridge Court, Rocklin, advised that the appointee has not and does not not reside at that residence. He further advised that the appointee receives no mail at that address and believes that the appointee keeps that address as legal residence in order to maintain his voter registration. MARSH's wife, ALLEENE, and the appointee's wife are sisters. He went on to describe the appointee as being a kind, generous and wonderful man who has an impeccable sense of moral right. MARSH went on to say that the appointee enjoys an excellent reputation in the community. MARSH further stated that he knows the appointee does not drink, use drugs or have any biases. MARSH wholeheartedly recommends the appointee for a position with the U.S. government.

3523 Buckskin Court
Rocklin, California

On July 5, 1985, GARY DUERNER, 3527 Buckskin Court, owner, DUERNER AND ASSOCIATES, INCORPORATED (real estate), 4811 Chippendale Drive, No. 402, Sacramento, California, 95841, telephone 331-0550, advised that the appointee did reside at 3523 Buckskin Court, Rocklin, California. DUERNER has known the appointee since 1966. DUERNER describes the appointee as a near perfect individual with no biases and no alcohol or drug usage. DUERNER highly recommends the appointee for a position of trust with the U.S. government. DUERNER further describes the appointee as a very religious man with a strong sense of moral right. DUERNER was a partner with the appointee in an enterprise as STRAWBERRIES AND STUFF which began in late 1979 and lasted six to nine months. DUERNER described STRAWBERRIES AND STUFF as an import-export art business.

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On July 5, 1985, TOM WAGNER, 3535 Buckskin Court, Rocklin, California, owner of PAUL WAGNER BIG AND TALL, 1129 Roseville Square, 95678, advised that he does remember the appointee. WAGNER stated that he knew the appointee as a casual acquaintance but he believed the appointee to be very loyal to the United States government and quite active in church as well. WAGNER has never known the appointee to use drugs or alcohol and believes there is nothing in the appointee's nature to bias his judgment one way or another. WAGNER believes that the appointee lived in that neighborhood from August, 1979 to July, 1981 and strongly recommends the appointee for a position of trust with the U.S. government.

On July 5, 1985, BEV SABO, 3543 Buckskin Court, Rocklin, California, a first grade teacher with the SAN JUAN UNIFIED SCHOOL DISTRICT, advised that she does fondly recall the appointee. She recalls that the appointee resided in that area from the summer, 1979 to the summer of 1979. SABO stated that the appointee enjoys an excellent reputation in that area and gets along with everyone. SABO stated that the appointee devoted much of his time and energy to church activities and was always willing to help anyone who needed it. SABO advised that she has never known the appointee to use drugs or alcohol and believed there was nothing which could cause him to discriminate against one group or another. SABO highly recommends the appointee for a position of trust with the U.S. government.

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MCN/mcn

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ARREST

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Third Party

The following investigation was conducted by

[REDACTED]

On July 8, 1985, the following individuals advised they could locate no arrest record regarding appointee:

CAROL FILES
Placer County Sheriff's Office
Auburn, California
(covers Rocklin)

ALMA WALLER
Rocklin Police Department
Rocklin, California

CREDIT

On July 9, 1985, LIZ CRIDGE, Retailers Credit Association, Sacramento, California, member of Credit Bureaus, Inc., advised appointee has been known to their files since June, 1967, and has an excellent credit rating.

MISCELLANEOUS

On July 16, 1985, a check of the SACRAMENTO BEE newspaper library reflected numerous articles regarding appointee; however none of a derogatory nature.

SC 161B-785
TFM/sr

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MISCELLANEOUS

The following investigation was conducted by
SA

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Third Party

AT AUBURN, CALIFORNIA:

On July 10, 1985, GAY TROMBLEY, RECORDERS OFFICE, PLACER COUNTY COURT, advised that a search of her records indicates no liens or covenants against property located at 5629 Maple Ridge Court, Rocklin, California.

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE WASHINGTON FIELD	OFFICE OF ORIGIN FBIHQ	DATE 7/17/85	INVESTIGATIVE PERIOD 7/1-17/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY SA [REDACTED]	TYPED BY pjd
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-29-2007 BY AUC 60324/BAW/STP/cld		CHARACTER OF CASE SPIN b6 b7C Third Party	

REFERENCE:

Bureau Airtel to WFO dated 6/29/85; WFO teletype to Indianapolis ETAL dated 7/3/85.

(RUC)

ADMINISTRATIVE:

All persons contacted were advised of the provisions of the Privacy Act of 1974; [REDACTED] requested confidentiality. [REDACTED] is identified on attached administrative page. [REDACTED] organization, objects to the appointee because of the appointee's religious beliefs and how they might effect the appointee in his new position.

All other persons and organizations either have no knowledge of the appointee or speak favorably.

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES			
APPROVED NAZ/UB						SPECIAL AGENT IN CHARGE		
COPIES MADE: 2-Bureau 1-Washington Field (161B-14852) 15- [REDACTED] copies to White House 7-26-85 ENC. BEHIND FILE						DO NOT WRITE IN SPACES BELOW 161-15392-810 NOT RECORDED 17 FEB 27 1986 6-228		
Dissemination Record of Attached Report						Notations		
Agency								
Request Recd.								
Date Fwd.								
How Fwd.								
By								

57 APR 1 1986

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ADMINISTRATIVE

[redacted] is identified as [redacted]
[redacted] who
has no personal knowledge of the appointee.

[redacted] desired confidentiality as regards his identity
and that of his organization. His concern was that [redacted]
[redacted]

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

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Third Party

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-29-2007 BY AUC 60324/BAU/STP/cld

Copy to:

Report of:

SA [REDACTED]

Office: Washington, D. C.

Date:

7/17/85

Field Office File #: WFO 161B-14852

Bureau File #:

Title:

HERBERT EUGENE ELLINGWOOD

Character:

SPECIAL INQUIRY

Synopsis: Employment at WH and Merit Systems Protection Board confirmed. The only persons at WH familiar with appointee would not comment due to the fact that they will be required to pass judgment on the appointee at the conclusion of the investigation. References and close personal associates recommend. D. C. Bar check revealed appointee is a member in good standing. Bar officials not familiar with appointee. Minority and ethnic representatives not familiar with appointee. Religious, labor and political party leaders not familiar with appointee. Associates commented favorably and recommend. Organizations contacted provided non-derogatory information, except for [REDACTED] who requested confidentiality and assigned [REDACTED] Objections to appointee based on the appointee allegedly supporting a "Talent Bank" made up of Christian Fundamentalists to whom 25 percent of all new federal jobs should be given. Local police agencies and USSS checks negative. U.S. Attorney's Office negative. Checks at OPI, OS, and OPR at DEPARTMENT OF JUSTICE negative. Appointee's office contacted. GAO report and investigative document from Congresswoman SCHROEDER's office attached.

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- RUC -

DETAILS: AT WASHINGTON, D. C.

*corrected
copy attached*

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K. MISCELLANEOUS

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5. Statement regarding Attachment 3

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EMPLOYMENT

MERIT SYSTEMS PROTECTION BOARD

On July 2, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in reference to the appointee, HERBERT EUGENE ELLINGWOOD:

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Third Party

MARIA JOHNSON, Board Member at the Merit Systems Protection Board, stated that she has known the appointee for approximately two and one-half years on a strictly professional basis. JOHNSON described the appointee's legal ability and competence as excellent. JOHNSON further stated that the appointee's general knowledge and use of the tools of the law were excellent and his writing ability and ability to manage complex legal matters were also excellent. JOHNSON stated that the appointee's articulation on legal matters is excellent. She stated that she is only aware that the appointee has handled one type of case since she has known him and that in handling of those matters, he has shown "an excellent grasp of the law." JOHNSON stated that the appointee's temperament and demeanor are very professional even under stress. JOHNSON stated that the appointee has unquestionable professional ethics and she considers him to be a very fair person. She stated that she has not seen the appointee exhibit any biases or prejudices and considers him to be very fair and honest. JOHNSON stated that as far as his views on civil rights, she and the appointee have not gotten into any complex discussions about them, but she has seen through his actions and through his voting on the board that he is fair to all persons. JOHNSON stated that the appointee is very active in his private and social life, but is not aware of his involvement in any professional activities. She could not comment on any awards or accomplishments that he has received in his personal life and knew of no major awards or accomplishments that he has been credited with during his time at the Merit Systems Protection Board. She stated the appointee has a well regarded professional reputation and could not comment on his personal reputation. JOHNSON stated that she recommends the appointee without reservation for a position of trust and confidence with the United States Government. JOHNSON stated that the appointee is entirely trustworthy and reliable. She could provide no information on any associates or associations which the appointee has that are disruptive or disloyal. JOHNSON stated that there is no reason whatsoever to doubt the patriotism or loyalty of the appointee. JOHNSON has had no indication that the appointee either uses illicit drugs or abuses alcohol. JOHNSON stated that the appointee is a good person with excellent management skills who has succeeded in making the Merit Systems Protection Board a model agency. She stated that he has done wonderful things there, like decreasing the incredible backlog of cases that were there when he first arrived. JOHNSON

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stated that the appointee has always voted fairly regardless of the race of the persons involved and seems to be very comfortable with both minority and nonminority persons.

On July 3, 1985, the following investigation was conducted by Special Agent (SA) [redacted] in reference to the appointee, HERBERT EUGENE ELLINGWOOD:

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Third Party

DENNIS DEVANEY, Board Member, Merit Systems Protection Board, stated that he has known the appointee for approximately three years on a professional basis. DEVANEY stated that the appointee is a very good lawyer with a good general knowledge of the law who uses his staff well to handle problems of the office. DEVANEY stated that he is not familiar with any courtroom experience that the appointee may have had, nor is he aware of any experience before a jury that the appointee may have had. DEVANEY stated that the appointee is very comfortable conducting oral arguments and that his writing ability is quite good. DEVANEY stated that the appointee's ability to manage complex legal matters is high and he handles them very well. DEVANEY stated that the appointee is very mild mannered and he has seen him under stress, in which he handled himself very well. DEVANEY stated that the appointee was not visibly affected by the stress. DEVANEY advised that the appointee's professional ethics were very good, and that the appointee was always fair in his dealings with him, and was fair in the cases that he handled. DEVANEY stated that the appointee has not shown him any biases or prejudices against any class of citizens or any religious, racial, or ethnic groups. DEVANEY stated that the one problem which he has been involved with concerns himself with the appointee's practice of holding prayer meetings in his office before office hours. DEVANEY further stated that he had no problem with the meetings, but that several of the Jewish lawyers who worked at the Merit Systems Protection Board came to him and advised him that they felt uncomfortable about these prayers meetings. DEVANEY stated that he listened to them and then went to the General Counsel, who studied the problem and advised that there was nothing wrong with the prayer meetings being held, due to the fact that they allow other groups free access to the office and that to be fair, this group would also have access to the office. DEVANEY stated that certain persons who had concerns with this type of meeting at the Merit Systems Protection Board, tried to keep it out, but he felt that the General Counsel ruling was fair. DEVANEY stated that he does not feel it directly affects the workings of the office and that the appointee has been very practical and very discreet with these particular meetings. DEVANEY stated that he could not really comment on the appointee's views on civil

rights. DEVANEY advised that his impression of the appointee is that he is fairly active in civic and professional activities, and maintains strong ties to his hometown of Sacramento, California. DEVANEY stated that he could provide no exact names of organizations, but reiterated that the appointee is active professionally. He stated that the appointee, to his knowledge, has not received any major awards and would say that the major accomplishments of the appointee have been his management initiative at the board. DEVANEY also advised that the appointee's personal and professional reputations are good, but that the appointee is certainly controversial and the reasons why the appointee is controversial are well-known. DEVANEY stated that the appointee is qualified for the position of Assistant Attorney General for the Office of Legal Policy and therefore recommends him.

DEVANEY stated that the appointee's character can be described as trustworthy, very reliable, and a good moral person. DEVANEY could not provide any information to indicate that the appointee has associates who are either disreputable or disloyal. DEVANEY stated that if the appointee had any associates or any associations with persons who were disreputable or disloyal, that it would "surprise me." DEVANEY stated that the appointee is a very loyal, patriotic American, who does not use illicit drugs or abuse alcohol. DEVANEY could provide no derogatory information concerning the appointee.

On July 2, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD:

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Third Party

EVANGELINE SWIFT, General Counsel, Office of General Counsel, Merit Systems Protection Board, stated that she has known the appointee for approximately five years on a professional basis. SWIFT stated that the appointee "is smarter than most attorneys," and "has the quickest mind of any attorney I have known." SWIFT stated that the appointee has a good legal mind and is very competent as an attorney. SWIFT stated that the appointee has a very large general knowledge of the law and uses the tools of the law well. SWIFT could not comment on his courtroom experience, due to the fact that she has not known him while he was a practicing attorney. SWIFT advised that the appointee articulates well and again stated that he was a "fine lawyer." SWIFT stated that the writings that the appointee does are well done and that he is extremely good at managing complex legal matters. SWIFT stated that the appointee is very calm under stress and that she has never worked for anyone who has been calmer. SWIFT stated that the appointee's professional ethics are excellent and that he is "the fairest man I've ever met in any profession." SWIFT advised that she knew of no biases or prejudices that the appointee has. SWIFT stated that the appointee and she have not sat down and had a long discussion on his view of civil rights, but since he is a fair man and he understands the law, he follows those decisions regardless of the ethnic origin of the person whose case he is deciding. SWIFT further advised that the appointee is very big on civic and professional activity. She stated that he has urged everyone who works for him to become involved in the community and in outreach programs. SWIFT stated that the appointee and the office have received several awards for assistance in special projects. She stated that these awards were a result of the appointee's guidance. SWIFT most certainly recommended the appointee for a position of trust and confidence in the United States Government.

SWIFT stated that the appointee is hardworking, supportive, and the "best manager I have ever seen." SWIFT stated that she knows of no associates of the appointee who are either disruptive or disloyal. SWIFT advised that there is certainly not any reason to think that the appointee is disloyal or unpatriotic. SWIFT stated that the appointee does not drink and she has had no indication that the appointee uses illicit drugs. SWIFT could provide no derogatory information concerning the appointee.

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FRANK HAGAN, Comptroller, Office of the Comptroller, United States Merit Systems Protection Board, stated that he has known the appointee for approximately five years on a professional basis. HAGAN stated that initially he knew the appointee only socially, but that relationship changed when he began to work for the appointee. HAGAN stated that he is unable to comment on the appointee's legal ability due to the fact that he has no direct dealings on a legal basis with the appointee. HAGAN stated that the appointee has a good reputation for general knowledge of the law and that what he has done at the agency has shown him that he can produce a good product. Additionally, HAGAN stated that the appointee's reputation regarding courtroom experience and articulation are excellent. HAGAN stated that the appointee is a good manager who fosters other good managers by allowing them to develop on their own. HAGAN stated that the appointee's writing ability is excellent and that he cannot comment personally on the appointee's ability to manage complex legal matters. HAGAN stated that the demeanor and temperament of the appointee do not vary much whether he is under stress or not under stress. HAGAN stated that the appointee is "as level as anyone I have ever known." HAGAN stated that the appointee is not moody. HAGAN said that as far as being fair, the appointee is excellent. HAGAN said that he has not seen any biases or prejudices that the appointee might have. HAGAN advised that he could not comment directly on the appointee's views on civil rights due to the fact that he does not deal on a daily basis with the appointee in regards to civil rights. HAGAN said that the appointee is very involved in civic functions and stated that at one point the appointee insisted on serving the poor people in the District of Columbia with food. HAGAN stated that the appointee is also very busy with religious organizations. He further stated that he is not aware of any major awards or accomplishments which the appointee may have received. HAGAN stated that the personal and professional reputation of the appointee is very good and that he cannot respond because he does not know what the professional reputation of the appointee is. HAGAN stated that he absolutely recommends the appointee for the position of trust and confidence with the United States Government.

HAGAN stated that the appointee is trustworthy, reliable, steady, very predictable and good morally. HAGAN stated that the appointee "does not practice situation ethics." HAGAN stated that he knows of no associates or associations which would be termed disreputable or disloyal. HAGAN advised that there is no reason to believe that the appointee is not an extremely loyal, patriotic person. HAGAN stated that the appointee sees himself as serving the President and therefore is extremely loyal to him. HAGAN stated that he has no indication

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that the appointee uses illicit drugs or abuses alcohol. HAGAN could not provide any derogatory information concerning the appointee.

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Third Party

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On July 2, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in reference to the appointee, HERBERT EUGENE ELLINGWOOD:

K. WILLIAM O'CONNOR, Special Counsel, Office of the Special Counsel of the Merit Systems Protection Board, advised that he has known the appointee for approximately four years on both a professional and social level. O'CONNOR stated that he first met the appointee when he was a candidate for Inspector General. Their initial contact with each other was social in nature. He stated that their contacts became professional in approximately 1982. O'CONNOR stated that he meets one time each week with the appointee during which they discuss personnel problems and other items of business. He stated that the appointee is highly competent regarding his legal ability and is very, very conservative in regards to interpreting the laws. O'CONNOR stated that the appointee has significant legal insight into the law and what is happening with it. O'CONNOR advised that the appointee is a good lawyer. O'CONNOR stated that he has taken cases before the appointee in court and has found the appointee's demeanor to be excellent. O'CONNOR stated that the appointee has a good working knowledge of the law and that the appointee is articulate, thoughtful, conscientious, and fully understanding of the law. O'CONNOR stated that he does not have any personal knowledge of the appointee's conduct before a jury. He stated that the appointee writes well-written opinions which are what O'CONNOR termed to be "tight." O'CONNOR said that the appointee is excellent when it comes to ability to manage complex legal matters and as a way of example pointed out his conduct during the air controllers strike and the handling of those legal issues. O'CONNOR stated that the appointee's temperament is calm, considerate, thoughtful, and that the appointee handles things rationally with measured responses. O'CONNOR stated that the appointee's professional ethics are fine and that he is fair. O'CONNOR stated that the appointee is biased only in favor of truth and of the "conservative constitutionality" of laws. He said that the appointee is a firm believer in the law being "color blind" and uses a very ethical approach to the law. O'CONNOR stated that the appointee is involved in many civic and professional activities on his own time. He advised that the appointee travels extensively on church business and gets up early in the morning to conduct church business prior to arriving at work. O'CONNOR stated that he was not in a position to know of any major awards or accomplishments that the appointee may have been involved in since his coming to the Merit Systems Protection Board. He stated that the appointee's personal and professional reputation is excellent and that the appointee would make a great Assistant Attorney General and therefore he highly

recommends the appointee for that position.

O'CONNOR stated that the appointee is an excellent person, proud of his associations and a man of high principles and morals. O'CONNOR stated that he was not aware of any associates or associations which the appointee has that were labeled disruptive or disloyal. He further stated that there is no reason to doubt that the appointee is a patriotic, very loyal American. O'CONNOR stated that the appointee does not drink and has never had any indication that he uses illicit drugs. O'CONNOR stated that he has no derogatory information to provide concerning the appointee and further added that during the three investigations which have been conducted by his office on the appointee, he has found them all to be groundless. O'CONNOR stated that the appointee is in a political position in Washington, D. C., and therefore is in a position to have "mud slung at him."

On July 8, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in reference to the appointee, HERBERT EUGENE ELLINGWOOD:

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Third Party

PAUL TRAYERS, Legislative Counsel, Office of Legislative Counsel, Merit Systems Protection Board, stated that he has known the appointee for approximately three years on a professional basis. TRAYERS advised that the appointee is highly competent and has the highest legal ability. TRAYERS stated that the appointee's general knowledge of the tools of the law are "tops" and that the appointee does not waste words when he speaks or writes. He stated that the appointee is very articulate and very concise. TRAYERS stated that he is not familiar with the appointee's courtroom experience, but knows from working with him that the appointee's experience is extensive in that area. TRAYERS further stated that he has not seen the appointee in a courtroom, but has observed the appointee conduct hearings at the Merit Systems Protection Board. TRAYERS stated that those hearings have been conducted in a professional manner. He stated that the appointee's ability to manage complex legal matters is the appointee's "strong suit." TRAYERS stated that it is impossible to tell if the appointee is upset because the appointee does not show any emotion even when placed under a great deal of stress. TRAYERS stated that the appointee's temperament and demeanor are very even and unshowing. TRAYERS stated that the appointee's professional ethics are "above board" and that he is the "fairest" person that he has ever known. TRAYERS stated that he does not know of any prejudice or bias that the appointee has against any class of citizen or any religious, racial or ethnic group. TRAYERS stated that the appointee is a very religious person, but it has been his experience while working for the appointee that the appointee's religion does not enter into decisions which he makes either on personnel matters within the Merit Systems Protection Board or on cases that the board hears. TRAYERS stated that he is not familiar with all of the appointee's views on civil rights, but believes that the appointee is for affirmative action to allow persons equal access to all areas of education and society in general. TRAYERS advised that the appointee is one of the busiest persons that he has ever seen and described the appointee as "civically conscious." He further stated that the appointee is very private about any accomplishments or awards received from civil activity, but he added that the appointee has on occasion received awards which he cannot specifically recall at this time. TRAYERS stated that the appointee is one of the "top two or three people

I've ever known." TRAYERS further described the appointee as a top notch person whom he was happy to recommend for the position at the DEPARTMENT OF JUSTICE. TRAYERS commented favorably on the appointee's character, associates, reputation, and loyalty, and indicated that the appointee has never abused alcohol or used illicit drugs. TRAYERS stated that there is not any derogatory information about the appointee which he knows of. TRAYERS stated that there are certain groups who oppose the appointee because of the appointee's Christian beliefs, but that as far as he is concerned, those beliefs have not entered into the decision-making process of the appointee. TRAYERS stated that he knows that the appointee has talked about a job bank for certain persons of a particular religion, but added that he is of a different religion and different party and was nonetheless promoted from within the Merit Systems Protection Board, on merit and not on his religious philosophy. TRAYERS advised that at least two investigations have been conducted into the appointee's work at the Merit Systems Protection Board and on each occasion the investigations proved negative. TRAYERS stated that the appointee has set no record, in managing the Merit Systems Protection Board, to indicate that his religious beliefs have undue influence on his decisions.

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Third Party

On July 2, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in reference to the appointee, HERBERT EUGENE ELLINGWOOD:

ERIC BRUGGINK, Director, Office of Appeals Counsel, Merit Systems Protection Board, stated that he has known the appointee for approximately three years on a professional basis. BRUGGINK stated that the appointee is extremely competent and has the highest regard for his legal skills and his analytical ability. BRUGGINK stated that the appointee is very bright and has good legal and management skills. BRUGGINK stated that he was not familiar with the appointee's courtroom experience or his demeanor before a jury. BRUGGINK stated that the appointee is extremely articulate, very direct, and concise in his writings. BRUGGINK stated that when the appointee writes something, there is no mystery about what he is saying. BRUGGINK stated that he gives the appointee his highest rating for his ability to manage complex legal matters. BRUGGINK advised that the appointee's ability to manage complex legal issues is the appointee's "strong suit." BRUGGINK further advised that the appointee never loses his cool and when faced with stress, he is "utterly unruffled." BRUGGINK stated that the appointee's professional ethics are perfect and that the appointee is highly ethical. BRUGGINK advised that the appointee is perfectly fair in his decisions and highly ethical when it comes to fairness. He stated that he does not know of any biases or prejudices that the appointee may have against any class of citizens, religious, racial, or ethnic groups. BRUGGINK stated that the appointee's views on civil rights are that he enforces the law as it is and is very fair about the enforcement. BRUGGINK stated that he was not aware of any major awards that the appointee might have received, but felt that the accomplishments which should be credited to the appointee was the running of the Merit Systems Protection Board. BRUGGINK stated that the appointee was able to rid the Merit Systems Protection Board of its backlog of cases and that this was a great accomplishment. BRUGGINK advised that the appointee's personal and professional reputation is very good and that he absolutely recommends the appointee for a position of trust and confidence with the United States Government. BRUGGINK stated that the appointee has a great deal of trustworthiness, reliability, and is truly a great person who is full of integrity and drive. BRUGGINK stated that the appointee does not belong to any associations or has any associates that could be labeled disreputable or disloyal. BRUGGINK stated that the appointee is a loyal, patriotic American. BRUGGINK stated that the appointee does not drink at all and has no indication that the appointee uses illicit drugs. BRUGGINK advised that he does not know of any derogatory information concerning the appointee, and that he has total confidence and trust in him as a person.

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BRUGGINK stated that the appointee has a great desire to be of service to his country and is a very compassionate person.

WHITE HOUSE

WFO 161b-14852
RPC:bp

The following investigation was conducted by Special Agent (SA) [REDACTED] on July 2, 1985:

A search of the files of the Records Office, WHITE HOUSE, revealed the following information concerning HERBERT E. ELLINGWOOD:

<u>Date</u>	<u>Action</u>
April 21, 1981	Presidential Commission to the Deputy Counsel to the President
May 7, 1982	Presidential Commission to be a Member of the Merit Systems Protection Board for the remainder of the time expiring March 1, 1986
May 7, 1982	Designated that Chairman of the Merit Systems Protection Board

The files contained no additional pertinent information.

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RPC:pdm

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Third Party

The following investigation was conducted by Special Agent (SA) [REDACTED] at the White House, Washington, D.C.:

The following individuals advised, on the dates noted, that although they worked on a professional basis with HERBERT ELLINGWOOD, at the Office of the Counsel to the President, White House, they did not wish to comment concerning his character, associates, reputation, or loyalty, because doing so would put them in conflict with their duties as Counsel and Deputy Counsel to the President. It is noted that the position of each of these individuals will require them to pass judgement on the appointee based upon the results of this investigation:

FRED FIELDING, Counsel to the President, 7/2/85.

RICHARD A. HAUSER, Deputy Counsel to the President, 7/2/85, and 7/10/85.

Due to the short time which the appointee spent at the Office of the Counsel to the President, and the turnover in personnel at this office since then, no one else could be located at the White House who could comment concerning the appointee's character, associates, reputation, or loyalty.

REFERENCES AND CLOSE PERSONAL ASSOCIATES

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Third Party

On July 2, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD:

JOYCE KEITH, Special Assistant to the Chairman, Merit Systems Protection Board, has known the appointee for over four years on a professional basis. She is currently employed as his Special Assistant and has contact with him professionally on a daily basis. KEITH stated that she was hired by him first as a Secretary at the WHITE HOUSE and remained with him after he came to the Merit Systems Protection Board. KEITH stated that she is not an attorney and therefore does not feel qualified to comment on areas concerning his legal ability. She stated that the appointee has not been a practicing attorney since 1966. KEITH stated that the appointee is a fine attorney who is a good speaker, easily understood and can articulate a position very well. KEITH stated that the appointee is a good organizer and manager, who is very active as Chairman of the Board, and puts out a great deal of work while he is at work. KEITH described the appointee's writing ability as very good, and his temperament and demeanor as excellent. She stated that the appointee is very controlled under stress and that he never shows emotion. She stated that the only way you can tell that he is upset is if you notice that he is quieter than he normally is. KEITH stated that his professional ethics are beyond reproach, and that he is an extremely fair person with no biases or prejudices towards others. KEITH stated that the appointee thinks everyone should be treated equal. KEITH said the appointee is very active outside of his employment in both religious and legal fields. KEITH stated that he serves on the Board of Directors of at least one college and is involved with a religious group entitled, "HERITAGE OF AMERICA." KEITH stated that the appointee has a very good reputation, both personally and professionally, and is known world-wide as a very good person. KEITH stated that the appointee has really good qualifications and therefore highly recommends him for a position of trust and confidence in the United States Government.

KEITH stated that the appointee is very religious with very strong ethics, who believes in being fair. KEITH further stated that he is a family man who cares about everyone and who is very thoughtful to both family and friends. KEITH stated that she is not aware of any associates or associations who the appointee frequents that may be considered disloyal or disruptable. She stated that the appointee is very loyal to the Government of the United States. KEITH stated that during the time she has known the appointee, she has had no indication that the appointee either uses illicit drugs or abuses alcohol. KEITH stated that she is sure that the appointee has never had a drink of alcoholic beverages. KEITH could not provide any derogatory information concerning the appointee. KEITH stated that the appointee gets along fine with the other board members and the board is now working much better than it was when he first arrived.

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Third Party

On July 2, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD:

VERNE SPIERS, Executive Assistant to the Chairman of the Merit Systems Protection Board, stated that he has known the appointee for approximately 11 years on a professional and social basis. SPIERS stated that the appointee is an extremely competent administrator. SPIERS stated that since he, himself, is not an attorney, he is more familiar with the appointee as an administrator than as an attorney. SPIERS stated that the appointee is a most brilliant person and considers him to be "externally acute" and an "attorney's attorney". SPIERS stated that the appointee is an extremely good writer and an exceptional speaker. SPIERS said that the appointee is extremely capable when it comes to managing complex legal matters, such as the ones handled in the Merit Systems Protection Board. SPIERS stated that the appointee is very even-tempered, seldom gets rattled, and has a level perspective, even under stress. SPIERS advised that the appointee's professional ethics are above reproach, and he is extremely fair in everything that he does. SPIERS advised that the appointee has shown no biases or prejudices against any class of citizen or any religious, racial, or ethnic group. SPIERS stated that the appointee is conservative in his approach, but that he applies standards and rights to all persons as they are established by law. He further stated that the appointee has a balanced perspective on his view of civil rights favoring none over the other. SPIERS stated that the appointee is very active both on the civic and professional level in the community, the church, and local affairs. SPIERS advised that the appointee has received numerous awards in his career and cannot point out one as being more major than the other. SPIERS advised that the appointee's professional and personal reputation is above reproach and that he works out differences and promotes cooperation with his co-workers and subordinates. SPIERS stated that he very highly recommends the appointee for a position of trust and confidence with the United States Government.

SPIERS stated that the appointee is trustworthy, reliable, with principles above reproach, and well-balanced morals. SPIERS advised that he had no indication that the appointee associated with or was active in any groups that were disruptive or disloyal. SPIERS stated that the appointee is a true patriot who is very loyal to the United States Government. SPIERS advised that he has had no indication that the appointee uses illicit drugs or abuses alcohol. SPIERS stated that he

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could not provide any derogatory information concerning the appointee, due to the fact that the appointee is one of the highest principled, dedicated individuals that he has ever met. SPIERS stated that the appointee takes pride in his job accomplishments, his beliefs, and his religious affiliations.

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On July 1, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] concerning the appointee, HERBERT EUGENE ELLINGWOOD.

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Third Party

RICHARD REDENIUS, Managing Director of the MERIT SYSTEMS PROTECTION BOARD, advised that he has known the appointee since December of 1981 when the appointee took over as chairman of the MERIT SYSTEMS PROTECTION BOARD. REDENIUS stated that prior to that he did not know the appointee and had never dealt with him either professionally or socially. REDENIUS stated that his association with the appointee since that time has been on a mainly professional basis and a somewhat limited social basis. REDENIUS stated that the appointee has a very good general knowledge concerning the use of the tools of the law. REDENIUS said that the appointee's ability to manage complex legal issues is quite good and that he can also articulate his positions on issues in a clear manner. REDENIUS advised that the appointee knows how to delegate and is a very process-oriented person. REDENIUS further stated that the appointee tends to favor short pieces of work and tends to come directly to the point on issues. REDENIUS stated that the appointee's temperament and demeanor are quite good and the appointee is a fairly quiet person. REDENIUS stated that he has observed the appointee under stress and the appointee's reaction is to get even more quiet than he is when not under stress. REDENIUS stated that the appointee has very high professional ethics and knows of no biases or prejudices which influence the appointee. REDENIUS stated that the appointee has a very restrained philosophy and uses great judicial restraint in all facets of his work. REDENIUS stated that this judicial restraint and restraint philosophy apply also to his views on civil rights. REDENIUS stated that the appointee is very active privately and REDENIUS is sure that he is active in many organizations on a professional level but was not in a position to comment on those. REDENIUS stated that during the time the appointee has worked at the MERIT SYSTEMS PROTECTION BOARD, he has not received any major awards or other awards for accomplishments which he has conducted within the frame work of the MERIT SYSTEMS PROTECTION BOARD. REDENIUS stated that he is not familiar with any major awards or accomplishments which the appointee may have received outside of the MERIT SYSTEMS PROTECTION BOARD. REDENIUS described the appointee's personal reputation as impeccable and his professional reputation as quite high as a manager. REDENIUS provided a high recommendation of the appointee for a position of Assistant Attorney General for the Office of Legal Policy.

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REDENIUS commented favorably on the appointee's character, reputation, associates and loyalty and used such words as "trustworthy, highly reliable and a man of strong beliefs", to describe the appointee. REDENIUS stated there is absolutely no reason to believe that the appointee is not patriotic and had no indication that the appointee used illicit drugs or abused alcohol. REDENIUS advised that the appointee is a very decent human being who was willing to listen to all sides and then make his decision based on what he has heard. REDENIUS stated that he thoroughly enjoys working with the appointee.

REDENIUS stated that since he is not a lawyer he could not comment on matters concerning the appointee's legal ability, competence, courtroom experience, jury appeal, and the specialization and types of cases the appointee has handled in the past.

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Third Party

On July 3, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in reference to the appointee, HERBERT EUGENE ELLINGWOOD.

Major General THOMAS K. TURNAGE, Director of Selective Service System, stated that he has known the appointee since 1971, on both a professional, personal, and social basis. TURNAGE advised that he frequently sees the appointee at various functions and business meetings in Washington, D.C. TURNAGE further advised that he has known the appointee since the appointee was Legal Affairs Secretary of California. TURNAGE stated that since he is not an attorney, he cannot comment first hand on the appointee's legal ability, courtroom experience, and jury experience, but knows from working with him that the appointee is highly competent and always shows a high degree of professionalism in whatever he does. TURNAGE stated that the appointee has an excellent knowledge of the law and has always handled complex legal matters in a professional manner with good insight into those matters. TURNAGE stated that the appointee's temperament is exceptional and outstanding, and he has always handled himself well under stress. He stated that the appointee's professional ethics are beyond reproach and he is "infinitely" fair. TURNAGE advised that the appointee has no biases or prejudices towards any particular group whatsoever. TURNAGE stated that the appointee is tolerant of all persons. TURNAGE stated he is somewhat aware of the views on civil rights of the appointee, inasmuch as the appointee abides by a personal code and believes in the equality of man. He further stated that the appointee is very active in religious organizations and in professional activities. TURNAGE stated that he is not aware of any major awards or accomplishments that the appointee has been a recipient of, because if the appointee received a major award, he, the appointee, would not go around telling everyone about it. TURNAGE advised that the appointee's personal and professional reputation is beyond reproach and that he recommends the appointee for a position of trust and confidence with the United States Government. TURNAGE stated that he wishes there would be better words to describe the appointee, because he feels so highly about the appointee.

TURNAGE commented favorably on the appointee's character, reputation, associates, and loyalty using such words as trustworthy, reliable, with flawless morals, and a rigid code of ethics. TURNAGE stated that the appointee would not belong to any groups which are disreputable or disloyal, and that there is no reason whatsoever to believe that the appointee is disloyal or unpatriotic. TURNAGE stated that the appointee does not drink and has never been known to use illicit drugs. He further stated

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KHS:tmc

that he could not provide any derogatory information concerning the appointee, because as far as he was concerned, there was none to report. TURNAGE stated that the appointee uses professionalism in all his dealings, and has so many admirable qualities that he himself wishes he had.

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Third Party

On July 1, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD.

Colonel FRANK SALCEDO, LAS CARIS DESIGN GROUP, stated that he has known the appointee since approximately August of 1969. SALCEDO stated that their association began as professional, continued in that manner for several years and then, after they no longer had professional contact, became social. SALCEDO stated that he has almost daily contact with the appointee and considers them to be the best of friends. SALCEDO stated that as a personal friend and having worked with the appointee professionally, he is more aware of the appointee's abilities as a manager than his legal experience. SALCEDO stated that the appointee is an organizer, handles people well and is good at eliminating conflicts between persons. SALCEDO stated that the appointee is a person of very high integrity, a very loyal American, a loyal supervisor, and a loyal subordinate. SALCEDO stated that the appointee is a good team player who knows how to manage people. SALCEDO stated that the appointee is trustworthy, reliable, and a person of the highest caliber. SALCEDO stated that the appointee is highly respected by co-workers and other associates. SALCEDO advised that the appointee's "word is bond." SALCEDO stated that there is no reason to doubt that the appointee is a patriotic, loyal American. SALCEDO advised that the appointee does not use illicit drugs or abuse alcohol and is in fact a total abstainer. SALCEDO stated that he has not had recent occasion to observe the appointee handle stress but stated that he and the appointee were involved in the riots in the late 1960's in California during which the appointee acted in a very "cool," very professional manner. SALCEDO stated that he has no derogatory information to report concerning the appointee. SALCEDO highly recommended the appointee for a position of trust and confidence with the United States Government.

BAR OFFICIALS

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On July 3, 1985, MARNA TUCKER, President, District of Columbia Bar at BOASBERG, KLORES, FELDSMAN, AND TUCKER, 2101 L Street, N.W., Washington, D.C., advised Special Agent (SA) [REDACTED] that she was not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

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THE DISTRICT OF COLUMBIA BAR
Washington, D.C.

On July 3, 1985, YVONNE INNISS, Membership Clerk, the District of Columbia Bar (Unified), Washington, D.C., advised Investigative Assistant (IA) [REDACTED] that the appointee, HERBERT EUGENE ELLINGWOOD, became a member of this association on November 7, 1983, and is currently an active member.

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Third Party

On July 3, 1985, LOU ANNE MC GLASHAN, Secretary, Office of Bar Counsel, the District of Columbia Bar, Washington, D.C., advised IA [REDACTED] that a review of the files indicated the appointee is a member in good standing, and there are no grievances pending or past on file in which have resulted in disciplinary action.

MINORITY AND ETHNIC REPRESENTATIVES

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On July 3, 1985, ALTHEA SIMMONS, Director, WASHINGTON BUREAU, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP), 1025 Vermont Avenue, N.W., Washington, D.C., advised Special Agent (SA) [REDACTED] that she was not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

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Third Party

On July 3, 1985, Dr. DOUGLAS GLASCOW, Vice President, NATIONAL URBAN LEAGUE, INCORPORATED, 425 13th Street, N.W., Washington, D.C., advised Special Agent (SA) [REDACTED] that he was not personally acquainted with the appointee, HERBERT EUGENE ELLINGWOOD. GLASCOW stated his organization would continue to research their files concerning the appointee and if any positive information was found that would effect the organization's opinion concerning the appointee's appointment.

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On July 3, 1985, BETTY WHALEY, President, WASHINGTON URBAN LEAGUE, INCORPORATED, 3501 14th Street, N.W., Washington, D.C., advised Special Agent (SA) [REDACTED] that she was not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

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Third Party

On July 2, 1985, JERRY BERMAN, Chief Legislative Counsel, AMERICAN CIVIL LIBERTIES UNION, Washington, D.C., advised Special Agent (SA) [REDACTED] that he was not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, and could make no comments concerning ELLINGWOOD either personally or professionally.

RELIGIOUS LEADERS

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On July 2, 1985, MARLEEN GORIN, Acting Executive Director, Jewish Community Council of Greater Washington, 1522 K Street, N.W., Washington, D.C., advised Special Agent (SA) [REDACTED] [REDACTED] that she is not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

WFO 161B-14852

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On July 2, 1985, CHERYL DAVIS, Administrative Assistant to BISHOP WALKER, Episcopal Diocese of Washington, D.C., Episcopal Church House, Mount Saint Alban, N.W., Washington, D.C., advised Special Agent (SA) [REDACTED] that the BISHOP advised he was not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

WFO 161B-14852

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On July 2, 1985, MONSIGNOR BOLAND, Catholic Archdiocese of Washington, 5001 Eastern Avenue, Hyattsville, Maryland, advised Special Agent (SA) [REDACTED] that he is not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

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Third Party

On July 1, 1985, LUCY SHAW, Secretary to WILFRED R. CARON, General Counsel, U.S. CATHOLIC CONFERENCE, 1312 Massachusetts Avenue, N.W., Washington, D.C., advised Special Agent (SA) [REDACTED] that CARON was on vacation until July 22, 1985, but she queried the other lawyers in the office concerning the appointee, HERBERT EUGENE ELLINGWOOD. None of the lawyers were familiar with the appointee either on a personal or professional basis.

LABOR OFFICIAL

WFO 161B-14852
HRC:mag

On July 3, 1985, LAWRENCE GOLD, Legal Counsel, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL-CIO), 815 16th Street, N.W., Washington, D.C., advised Special Agent (SA) [REDACTED] that he is not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

POLITICAL PARTY LEADERS

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Third Party

On July 3, 1985, RHONDA CULPEPPER, Secretary to BILL R. PHILLIPS, Chief of Staff, REPUBLICAN NATIONAL COMMITTEE, 310 1st Street, S.E., Washington, D.C., advised Special Agent (SA) [REDACTED] that PHILLIPS was not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

On July 1, 1985, JOHN GARST, Senior Vice Chairman, District of Columbia Republican Committee, 700 7th Street, S.W., Washington, D.C., advised Special Agent (SA) [REDACTED] that he was not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, and could make no comments concerning WILLARD either personally or professionally.

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HRC:act

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On July 2, 1985, GENNY DESMOND, Assistant Controller, Democratic National Committee, Political Division, 20 Ivy Street, S.E., Washington, D.C., advised Special Agent (SA) [REDACTED] [REDACTED] that no one at the Committee was knowledgeable of the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

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Third Party

On July 2, 1985, PHYLLIS JONES, Executive Director, District of Columbia Democratic State Committee, 1110 Vermont Avenue, N.W., Suite 840, Washington, D.C., advised Special Agent (SA) [REDACTED] that she was not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

ADDITIONAL ASSOCIATES

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Third Party

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The following investigation was conducted by Special Agent (SA) [REDACTED] at Washington, D.C. on July 2, 1985, regarding the appointee, HERBERT EUGENE ELLINGWOOD.

D. LOWELL JENSEN, Deputy Attorney General, DEPARTMENT OF JUSTICE, advised that he has known ELLINGWOOD since the 1960's. JENSEN was employed at that time in the District Attorney's Office in Oakland, California, and ELLINGWOOD was employed by a legal firm which was defending clients in the Oakland area. Their first association was strictly professional but has become more on the social basis. JENSEN advised that he lost contact with ELLINGWOOD when he (JENSEN) left the California area. When ELLINGWOOD came to the Washington area, they again renewed their social acquaintance, but JENSEN advised that he is not close to any of ELLINGWOOD's friends in the Washington area except for common friends of the California area. JENSEN does not know if ELLINGWOOD is presently practicing law as an attorney as ELLINGWOOD's main responsibility is oversight at the Merit Systems Protection Board. JENSEN stated that any knowledge he has of the appointee's legal abilities would be based on his knowledge of ELLINGWOOD's practice in California. JENSEN stated that ELLINGWOOD had a wide range of litigation experience in California and had an extensive knowledge of the law. Due to ELLINGWOOD's present employment, JENSEN believed that ELLINGWOOD is now more specialized in public employee laws. JENSEN stated that ELLINGWOOD's articulation of a case in front of a judge or jury was very good, and that the appointee's writing ability was adequate. Based on ELLINGWOOD's experience at the Merit Systems Protection Board, JENSEN stated that he should be able to manage complex legal matters very well. JENSEN advised that he could not comment on ELLINGWOOD's present temperament and demeanor as his knowledge of ELLINGWOOD was based on the time period when ELLINGWOOD was relatively new to the law. JENSEN has no reason to question the appointee's ethics or fairness, and has no knowledge of the appointee's view on civil rights. JENSEN advised that ELLINGWOOD may be considered a "lay minister" and as such, may hold many of the same opinions as the moral majority, but added that he is not sure how this would affect ELLINGWOOD as far as biases or prejudices. JENSEN stated that ELLINGWOOD's personal and professional reputation would be considered good to the best of his knowledge. JENSEN has no knowledge of any derogatory information concerning the appointee. He has no knowledge of the appointee abusing alcohol or using any illicit drugs. He also has no reason to question the appointee's loyalty to the United States Government. JENSEN would recommend the appointee for the position under consideration.

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Third Party

On July 7, 1985, JOHN HERRINGTON, Secretary of Energy, DEPARTMENT OF ENERGY, Washington, D.C., was contacted by Special Agent (SA) [REDACTED], FEDERAL BUREAU OF INVESTIGATION (FBI), Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

HERRINGTON has known ELLINGWOOD since 1981 when both men worked at the WHITE HOUSE. HERRINGTON was in charge of the WHITE HOUSE personnel and had routine contact with the appointee. Additionally, both men travel in the same social circle, HERRINGTON has had dinner at ELLINGWOOD's home, and both men have children attending the same high school.

HERRINGTON described the appointee as a very positive man who was obviously very intelligent. He had opportunity to observe his legal expertise while both worked at the WHITE HOUSE and considered him to be an outstanding lawyer of excellent character and high integrity. It was also obvious to HERRINGTON that ELLINGWOOD had a great ability as a manager.

As regards to the appointee's practice of religion, HERRINGTON knows ELLINGWOOD to be a very devoted Christian who is active in his church. Although he has never heard ELLINGWOOD talk about the matter, HERRINGTON is aware that an allegation was made in the newspaper about ELLINGWOOD's supposed endorsement of a "talent bank". HERRINGTON does not believe the allegation. He views ELLINGWOOD's current position as chairman of the MERIT SYSTEMS PROTECTION BOARD as being a very difficult job. Also, he believes ELLINGWOOD is subject to much criticism due to his firm and explicit personal and professional beliefs. HERRINGTON does not believe that ELLINGWOOD's religious beliefs have caused his professional objectivity to be affected. On the contrary, HERRINGTON greatly admires ELLINGWOOD's convictions and commitments and is confident that ELLINGWOOD's religious convictions enhance his ability as a public servant.

He knows ELLINGWOOD to enjoy a wholesome family life, believes the appointee to be in good health and to live within his means financially.

HERRINGTON knew of no derogatory information concerning ELLINGWOOD and highly recommended him for a position of Assistant Attorney General for Legal Policy. HERRINGTON stated that he has had no indication that the appointee uses illicit drugs or abuses alcohol.

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Third Party

On July 7, 1985, JAMES A.R. JOHNSON, Manager of GOVERNMENT AFFAIRS XEROX CORPORATION, Washington, D.C., was contacted by Special Agent (SA) [REDACTED] FEDERAL BUREAU OF INVESTIGATION (FBI), Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

JOHNSON first met the appointee when both men worked in the office of Governor REAGAN in 1971. JOHNSON was a peer staff member at that time, and the appointee worked as a counsel in the Legal Affairs Section of the Governor's office. He had daily dealings with ELLINGWOOD and routinely socialized with him.

JOHNSON stated that he was "very high" on ELLINGWOOD and considered his character to be absolutely impeccable. He knew ELLINGWOOD to be remarkably sensitive to the needs of people and to have a strong commitment to the individuals who worked for him. He also considered ELLINGWOOD to be an excellent manager and a very competent and intelligent attorney.

JOHNSON stated that ELLINGWOOD is a very religious man, but never observed any action or policy on the part of ELLINGWOOD that interfered with his official duties. JOHNSON was unaware of any endorsement by the appointee of a "talent bank".

JOHNSON stated that he knew no derogatory information concerning the appointee and had never observed any behavior that would indicate the excessive use of alcohol or the illegal use of drugs or narcotics. JOHNSON highly recommended the appointee for the position of Assistant Attorney General for Legal Policy.

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On July 3, 1985, LOUIS O. GIUFFRIDA, Director, FEDERAL EMERGENCY MANAGEMENT AGENCY, Washington, D.C., was contacted by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD. GIUFFRIDA has known ELLINGWOOD since approximately 1970, when he began working with the California Specialized Training Institution. Both the appointee and MR. MEESE were in GIUFFRIDA's reporting channel to then, GOVERNOR REAGAN. GIUFFRIDA described the appointee as an exceptionally intelligent man who was the "sharpest brain" he has ever met. He is especially impressed by ELLINGWOOD's ability to retain and digest a vast amount of information. The appointee has an obvious extensive knowledge of the law and, although he frequently speaks cryptically, is impressive when addressing groups. Additionally, GIUFFRIDA has always been impressed by ELLINGWOOD's ability to maintain a composed demeanor in the midst of very stressful situations.

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Third Party

GIUFFRIDA stated that he would trust ELLINGWOOD with his life and has absolute confidence in the appointee's ability to make clear and objective decisions. GIUFFRIDA, who described himself as a Catholic, stated that he is aware of the severe criticisms aimed at the appointee because of ELLINGWOOD's religious beliefs. GIUFFRIDA stated that he did not agree with the criticisms as he was sure the appointee conducted his government duties in an objective and professional manner and was not biased toward or prejudice against any person or group because of race, creed, color or religious affiliation.

He has known the appointee to be healthy in every regard, enjoy a wholesome personal life and live within his means financially. He has never known the appointee to consume alcohol nor use illegal drugs or narcotics. He highly recommends ELLINGWOOD for the position of Assistant Attorney General for the Office of Legal Policy.

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On July 11, 1985, ROBERT W. SWEET, JR., Senior Staff Member, Office of Policy Development, WHITE HOUSE, Washington, D.C., was contacted by Special Agent (SA) [REDACTED] FEDERAL BUREAU OF INVESTIGATION (FBI), Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

SWEET has known the appointee since about 1982, when both men worked at the WHITE HOUSE. He considered ELLINGWOOD to be a "terrific guy" who has the utmost integrity, honesty, and dedication. He considers ELLINGWOOD to be an outstanding attorney and a confident public servant.

SWEET is aware through local newspaper articles of the association of ELLINGWOOD with a "talent bank" concept. However, SWEET has no personal knowledge of ELLINGWOOD's endorsement of such a concept and considered the idea to be very inconsistent with ELLINGWOOD's expressed philosophy of abiding with rules, regulations and laws, and selecting the most qualified person for government employment.

SWEET stated that he knew of no derogatory information concerning the appointee and had never observed behavior that would indicate the excessive use of alcohol or the use of illegal drugs or narcotics. He highly recommended the appointee for the position of Assistant Attorney General for the Office of Legal Policy.

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Third Party

On July 9, 1985, ALEX KOZINSKI, Chief Judge, U.S. Claims Court, Washington, D.C., was contacted by Special Agent (SA) [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

Judge KOZINSKI, who described himself as a man of Jewish persuasion, worked with ELLINGWOOD in the WHITE HOUSE in 1981 and also worked with him in the MERIT SYSTEMS PROTECTION BOARD (MSPB) from December, 1981, through August, 1982, as a special counsel. KOZINSKI was not subordinate to ELLINGWOOD either at the WHITE HOUSE or at MSPB, but worked in a different section at both locations.

KOZINSKI described ELLINGWOOD as a very good man, who was very religious and committed to doing the right thing both in his personal and professional life. ELLINGWOOD always appeared to be a public activist in that he wanted to become involved in community affairs around him. As an example, KOZINSKI recalled that ELLINGWOOD was very active in various blood drives.

KOZINSKI knew the appointee to be competent in everything he did. He was most impressed by the manner in which ELLINGWOOD handled the voluminous cases that came to the MSPB concerning the air traffic controllers. ELLINGWOOD handled these matters fairly, effectively, and efficiently. KOZINSKI recalled that all of MSPB decisions, regarding the air traffic controllers, were affirmed by courts of law.

KOZINSKI knew ELLINGWOOD to be very dedicated and aggressive in his religious pursuits. On one occasion, ELLINGWOOD attempted to convert KOZINSKI religiously. KOZINSKI declined ELLINGWOOD's effort to accept his religious views, and was of the opinion that ELLINGWOOD considered the matter closed. KOZINSKI stated that he is not particularly fond of people who make aggressive efforts to convert others to their religion, however, he considers ELLINGWOOD to be a man of excellent character and does not believe that ELLINGWOOD's religious belief would interfere with his judgment or objectivity in the performance of his official duties. KOZINSKI is not aware of any "talent bank" concept and stated that he would be surprised if ELLINGWOOD endorsed any policy which encouraged a quota system for federal employees based on religious affiliation.

KOZINSKI stated that he believes the appointee is healthy in every regard and has no financial problems. He does not know ELLINGWOOD to consume alcohol, and has never observed

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behavior that would indicate the use of illegal drugs or narcotics. KOZINSKI knew of no derogatory information concerning the appointee's character, reputation, associates, or loyalty to the United States. He highly recommended ELLINGWOOD for the position of Assistant Attorney General for the Office of Legal Policy.

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Third Party

On July 9, 1985, Chief Judge HOWARD T. MARKEY, United States Court of Appeals for the Federal Circuit, Washington, D.C., was contacted by Special Agent (SA) [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

Judge MARKEY's court hears cases that come from the MERIT SYSTEMS PROTECTION BOARD (MSPB), of which the appointee is chairman. Judge MARKEY sees the appointee a great deal and has had routine contact with him over the last four years. Additionally, his clerks have routine contact with various administrative assistants at MSPB and Judge MARKEY routinely gives lectures to members of MSPB.

Judge MARKEY described the appointee as a very competent professional whom he admires very much. He has known ELLINGWOOD to be a dedicated public servant and his absence at the MSPB would undoubtedly be felt should he be appointed as Assistant Attorney General.

Judge MARKEY joined a bible study group to which ELLINGWOOD also belongs, however, because of other commitments, has been unable to attend. He is fully aware of ELLINGWOOD's religious commitments, but is unaware of any effort on the appointee's part to form a "talent bank" or encourage a manpower pool of potential government employees based on religious affiliation.

Although, Judge MARKEY has socialized with the appointee at official functions, he has made it a point not to routinely socialize with ELLINGWOOD because of the sensitivity of the relationship between his court and MSPB. Therefore, Judge MARKEY did not feel qualified to comment regarding the appointee's personal life. Judge MARKEY knew of no derogatory information concerning ELLINGWOOD's character, reputation, associates, or loyalty to the United States. He has never observed behavior that would indicate the excess use of alcohol or the use of illegal drugs or narcotics on the part of the appointee. He highly recommended ELLINGWOOD for the position of Assistant Attorney General for the Office of Legal Policy.

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On July 10, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in reference to the appointee, HERBERT EUGENE ELLINGWOOD.

DAVID AUSTERN, Director of Education of the Association of Trial Lawyers of America, stated that he has known the appointee for approximately four or five years on a professional basis. AUSTERN stated that he and the appointee see each other only intermittently approximately four or five times per year. He stated that, nonetheless, since he is an attorney he feels that he is in a position to comment on the legal ability of the appointee. AUSTERN stated the appointee is a superb attorney who is highly competent. AUSTERN further stated that the appointee's general knowledge of the law is very good and that his writing ability is also very good. AUSTERN stated that he is not in a position to comment on the appointee's courtroom experience but stated that from the contacts that he has had with the appointee, he believes that the appointee would be a natural in the courtroom and in front of the jury. AUSTERN stated that the appointee's writing ability is very good and that the appointee can articulate his points very well. He stated that the appointee's temperament and demeanor are very good and that he has observed the appointee under stress and has found that the appointee handles stress very well. AUSTERN advised that the appointee's professional ethics are very high and that the appointee is "very very" fair. AUSTERN further advised that he is not aware of any biases or prejudices that the appointee has against any class of citizen, any religious, racial or ethnic group. He stated that the appointee is very conservative in his views on civil rights but that he is not biased. He further stated that he is not aware of all the appointee's views on civil rights but reiterated that the appointee is conservative. AUSTERN stated that the appointee is very active in civic and professional activities and that the appointee is very committed to those activities. He stated that the appointee has received several awards from victim service groups and is not aware of the names of those awards but knows that the appointee has received them. AUSTERN stated that he absolutely recommends the appointee for a position of trust and confidence with the United States Government. AUSTERN further stated that the appointee's personal and professional reputation is "very very" good. AUSTERN commented favorably on the appointee's character, reputation, associates and loyalty and stated that he has not seen the appointee drink at all and had no indication that the appointee uses illicit drugs. AUSTERN could not provide any derogatory information concerning the appointee.

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KHS:bp

On July 10, 1985 the following investigation was conducted by Special Agent (SA) [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD.

DONALD SANTARELLI, SANTARELLI & BOND, stated that he has known the appointee since the late 1960's. SANTARELLI stated that they first met when the appointee was a lobbyist for the California State District Attorney's Association. He stated that their association since that time has been on both a professional and social basis and that at times they have practiced law together and have had a lot of experience working with each other. SANTARELLI advised that the appointee is extremely competent, honest, reliable and a person of the finest quality. SANTARELLI further stated that the appointee is an excellent attorney who is very lucid and excellent when it comes to writing about legal issues. SANTARELLI described the appointee as very articulate. SANTARELLI stated that he could not comment on the appointee's courtroom experience or his jury experience. SANTARELLI stated that the appointee has a great deal of experience in handling complex legal matters and is very able to handle those matters. SANTARELLI further stated that during the time he has known the appointee, the appointee has handled both criminal and civil matters and is well rounded in both areas. SANTARELLI advised that the appointee's temperament and demeanor is "unusually good for an attorney". He further stated that the appointee is "cooller than I", indicating that the appointee is very even tempered. He further stated that the appointee has the highest ethical standards, is a very fair person and is "prejudiced against criminals". SANTARELLI stated that the appointee is a very avid Christian and tends occasionally to "proselytize". SANTARELLI added that the appointee is not prejudice against any class of citizen, or any religious, racial or ethnic group. SANTARELLI advised that he is not entirely familiar with the appointee's views on civil rights but stated that the appointee is a "civil libertarian as opposed to a civil rightist". He stated that the appointee is considerably active in both civil and professional groups and believes the appointee has recently received an award but could not recall the exact name of it at this time. SANTARELLI stated that the appointee's personal and professional reputation is outstanding and that he enthusiastically recommends the appointee for a position of trust and confidence in the United States Government. SANTARELLI stated that the appointee is a true patriot who has never abused alcohol or used illicit drugs. SANTARELLI stated that there is no derogatory information concerning the appointee which he knows at this time. He lastly stated that the appointee is "intellectually conservative" and therefore is very controversial and will be as long as he remains in government.

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On July 5, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD.

JONATHON ROSE, Partner in the law firm of JONES & DAY, 655 15th Street, N.W., Washington, D.C., stated that he has known the appointee since 1981 on a professional basis. ROSE stated that he met the appointee when the appointee was Deputy Counsel at the White House. ROSE stated that he and the appointee have not had much contact since that time and that their time spent at the White House was not spent working closely together. ROSE stated that he did get to know the appointee somewhat and observed his work briefly while at the White House. ROSE stated that the appointee's legal ability was good and that he was a capable attorney. ROSE stated that the appointee has very good knowledge of the law and has fine writing ability. He could not comment on the appointee's courtroom experience, his jury experience or the types of cases handled. ROSE further advised that he did not observe the appointee handling complex legal matters but knows that he had experience in that area. He stated that the appointee's temperament and demeanor were fine and that he was a very likable person. He further stated that no questions ever came up as to the appointee's professional ethics and he found the appointee to be perfectly fair and even-handed. ROSE stated that he had never heard of any prejudices or biases that the appointee may have regarding any class of citizen, or any religious, racial or ethnic group. ROSE stated that he was not really familiar with the appointee's views on civil rights because they did not come up during the time that he worked with the appointee. He further stated that the appointee was very active in church matters and was not sure if he was active in any other ways. ROSE stated that he was not aware of any major awards or any major accomplishments that the appointee may have received or completed during the time that he has known him. ROSE stated that the appointee was thought highly of on a professional level and could not comment on the appointee's personal reputation. ROSE stated that with the limited contact that he has had with the appointee, he does not have the basis not to recommend the appointee and further stated that the appointee "seems to have the full confidence of the Attorney General and that is what it takes to have a job such as the one the appointee is being considered for." ROSE commented favorably on the appointee's character, reputation, associates, loyalty, and felt that the appointee would do a good job. ROSE stated that he had no indication that the appointee uses illicit drugs or abuses alcohol. ROSE could provide no derogatory information concerning the appointee.

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On July 3, 1985, CHIP GRANGE, Attorney, Law Firm of GAMMEN and GRANGE, 1925 K Street, N.W., Washington, D.C., was contacted Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

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Third Party

GRANGE has known ELLINGWOOD for approximately three years as both men belong to the Christian Legal Society. GRANGE has not had a legal adversarial relationship with ELLINGWOOD; however, in the course of extended conversations regarding legal matters it is obvious that the appointee is extremely competent as regards his knowledge of the law. GRANGE has been on several panels with ELLINGWOOD and judged him to be a very effective speaker. GRANGE stated that he is aware that ELLINGWOOD's professional objectivity has been called into question because of his religious beliefs. It was GRANGE's opinion that ELLINGWOOD is most professional in the conduct of his business and his religious beliefs have enhanced his ability to deal effectively with complex issues. GRANGE knew the appointee to be exceptionally sensitive to the needs of people and conducted his personal and professional business appropriately. He has known the appointee to be healthy in every regard, have a wholesome family life and live within his means financially. ELLINGWOOD's personal associates are of equally high caliber. He has never known the appointee to consume alcohol nor use illegal drugs or narcotics. GRANGE knew no derogatory information concerning ELLINGWOOD's character, reputation, associates or loyalty to the U.S. He highly recommended the appointee for the position of Assistant Attorney General for Legal Policy.

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Third Party

On July 3, 1985, JAMES T. WATT, former Secretary of the Interior, currently with the Heritage Foundation, Washington, D.C., was contacted by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD. WATT has known ELLINGWOOD for approximately 15 years as both men belong to the Full Gospel Businessmen Group. WATT has no direct knowledge concerning the appointee's legal abilities, however, he knows of the appointee's reputation as an astute attorney. WATT stated that he holds ELLINGWOOD in the highest esteem and considers him to have a great depth of character, courage and commitment to the expression of basic Christian principles. WATT is aware of the extensive criticism that ELLINGWOOD has experienced and attributed the criticism as an assault from the liberal and destructive press whose only purpose appear to be to undermine ELLINGWOOD's effectiveness. WATT did not consider ELLINGWOOD to be bias in favor of Christians or prejudice against anyone who is not a Christian, but stated that he was convinced that ELLINGWOOD's religious beliefs enable him to be completely competent in his government employment. WATT stated that he was confident that ELLINGWOOD's religious beliefs and practices never have interfered with the official functions of ELLINGWOOD's Office.

WATT has known the appointee to be healthy in every regard, enjoys a well rounded personal life and to live within his means financial. He has never known him to consume alcohol or use illegal drugs or narcotics. WATT knew no derogatory information concerning the appointee's character, reputation, associates, and loyalty to the United States, and highly recommended him for the position of Assistant Attorney General for the Office of Legal Policy.

ORGANIZATIONS

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On July 3, 1985, CRAIG A. BERRINGTON, Assistant Deputy Undersecretary, EMPLOYMENT STANDARDS ADMINISTRATION, Washington, D.C., was contacted by SA [REDACTED] FEDERAL BUREAU OF INVESTIGATION, WASHINGTON FIELD OFFICE, in regard to the appointee, HAROLD EUGENE ELLINGWOOD.

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Third Party

BERRINGTON stated that the EMPLOYMENT STANDARDS ADMINISTRATION does not have contact with the MERIT SYSTEMS PROTECTION BOARD and neither he nor the Deputy Undersecretary SUSAN R. MEISINGER have had personal or professional contact with the appointee.

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Third Party

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On July 2, 1985, JOSEPH WOODWARD, formerly the Associate Solicitor of the Fair Labor Standards Labor Division, Office of the Solicitor, DEPARTMENT OF LABOR, Washington, D.C., was contacted by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

WOODWARD has recently left his position as Associate Solicitor after serving in that office for approximately three years. He stated that he had no contact with the appointee during his tenure as associate/solicitor and had no comment.

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Third Party

On July 3, 1985, HAROLD D. KESSLER, Case Management Director, Office of the Executive Director, FEDERAL LABOR RELATIONS AUTHORITY, Washington, D.C., was contacted by SA [REDACTED] FEDERAL BUREAU OF INVESTIGATION, WASHINGTON FIELD OFFICE, in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

KESSLER stated that his agency had no direct working relationship with the MERIT SYSTEMS PROTECTION BOARD and although he had met the appointee on several social occasions he, nor any other member of the FEDERAL LABOR RELATIONS AUTHORITY, had had professional contact with the appointee.

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Third Party

On July 1, 1985, ROBERT HONIG, Director for the Federal Government Service Task Force, House Office Building Annex, Washington, D.C., was contacted by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION (FBI), Washington Field Office (WFO), in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

HONIG has had no personal contact with the appointee, however, he is aware of ELLINGWOOD's reputation as a result of the appointee's position as Chairman of the Merit Systems Protection Board (MSPB). HONIG stated that he could make no comments concerning the appointee's character, ethics or qualifications for an Assistant Attorney General position in view of his lack of direct contact with the appointee. However, he stated that his task force was generally unhappy about the general conduct of the MSPB as he viewed it as a very weak entity within the Civil Service System.

HONIG was asked if he would like to comment in regard to any specific issues relevant to this background investigation and responded that he had no direct personal knowledge of the appointee but could only comment as to his opinion of the performance of the MSPB. HONIG emphasized that his organization and that of the appointee's were at odds politically and such political opposition should not reflect on the suitability of the appointee for the position of Assistant Attorney General for the Office of Legal Policy.

HONIG concluded by stating that there were no other personnel within his office that are familiar with the appointee.

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On July 1, 1985, H. STEVEN GORDON, General Counsel for the National Federation of Federal Employees (NFFE), 1016 16th Street, N.W., Washington, D.C., was contacted by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD. GORDON does not know the appointee personally but is aware of ELLINGWOOD's position as Chairman of the Merit Systems Protection Board (MSPB). GORDON stated that it is the common perception among most federal employees that MSPB is pro-management and does not fairly represent the interest of the individual federal employee; however, he is of the opinion that such a perception is a normal consequence of dealing with controversial issues. GORDON concluded by stating that he has absolutely no derogatory information concerning the appointee's character, integrity, honesty, ethics or suitability for the position of Assistant Attorney General for the Office of Legal Policy.

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Third Party

On July 2, 1985, ED MURPHY, Legislation Counsel, National Association of Government Employees, was contacted by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

MURPHY stated that he is aware of the appointee only as a result of newspaper articles and public documents he has reviewed. MURPHY stated the appointee has the reputation as a very conservative man who holds fundamental religious beliefs; however, MURPHY had no reason to believe that the appointee's religious beliefs would be an impediment to ELLINGWOOD's effective execution of his official duties as Chairman of the Merit Systems Protection Board or as Assistant Attorney General.

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Third Party

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On July 2, 1985, GRISHAM SMITH, Alternate Member, Wage Appeals Board, Office of the Undersecretary, DEPARTMENT OF LABOR, Washington, D.C., was contacted by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office in regard to the appointee, HERBERT EUGENE ELLINGWOOD. SMITH advised that the Wage Appeals Board does not have a mutual interest in cases that are considered by the Merit Systems Protection Board and therefore he had no comments concerning the appointee.

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Third Party

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On July 2, 1985, ANTHONY T. PODESTA, National Director of People For The American Way (PFTAW), 1424 16th Street, N.W., Washington, D.C., was contacted by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD. PODESTA stated that a representative from his organization has recently visited the White House and formerly opposed the appointment of ELLINGWOOD as the Assistant Attorney General for the Office of Legal Policy. PFTAW has been troubled by ELLINGWOOD's use of his good offices to advance his religious beliefs. Specifically, ELLINGWOOD is one of the Chief Advocates for a "Christian Talent Bank". PODESTA alleged that ELLINGWOOD conceived a philosophy that 25% of the American population is comprised of Christian Fundamentalists. These Christians do not include Presbyterians, Lutherans, Catholics and many other faiths. ELLINGWOOD has further purposed that a manpower pool be established for potential federal employee candidates made up of these fundamentalists. It is PODESTA's understanding that the "Talent Bank" has a 10 point political requirement which each candidate must satisfy before admission. PODESTA stressed that his organization is deeply concerned by anyone who has essentially assaulted the Merit System through a religious test. PODESTA knew of no specific instances in which government employees have secured their position through membership in the "Talent Bank".

PODESTA advised that his organization is also concerned about the part the appointee played in the GRETCHEN THOMAS affair, in which he understood that THOMAS made a loan to the Attorney General's wife, MRS. MEESE, and was subsequently given a position in the Merit Systems Protection Board. PODESTA continued that ELLINGWOOD has consistently abused his official duties through substantial travel at public expense for the purpose of promoting his aggressive religious views. As an example, ELLINGWOOD allegedly took a total of 10 weeks and six weeks of personal leave in 1982 and 1983 respectively in order to carry on the business of fundamentalist religious groups. Additionally, he alleged that there were an excessive number of international phone calls made at government expense from the Office of the Merit Systems Protection Board. The appointee is the International Director of the Full Gospel Business Men's Fellowship International Group, and as such, PODESTA maintained, used government telephones to conduct private business. PODESTA is under the impression all of these allegations have been investigated.

PODESTA concluded by stating that it was his understanding that ELLINGWOOD was rejected by the California

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State Bar upon his nomination by then GOVERNOR REAGAN for a State Appellate Judgeship in 1974. PODESTA was not aware of the reason for ELLINGWOOD's rejection but expressed his concern about the rejection in view of ELLINGWOOD's current consideration for a much more important position as Assistant Attorney General.

RECORDS CHECKS

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On July 3, 1985, JOSEPH E. DIGENOVA, U.S. Attorney for the District of Columbia, U.S. District Court Building, Constitution and John Marshall Place, N.W., Washington, D.C., advised Special Agent (SA) [REDACTED] that he is not familiar with the appointee, HERBERT EUGENE ELLINGWOOD, either personally or professionally.

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Third Party

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U.S. ATTORNEY'S OFFICE
555 4TH STREET, N.W.,
WASHINGTON, D.C.

On July 2, 1985, IA [REDACTED] caused a search to be made of the pending and closed cases of the Criminal Division of the U.S. Attorney's Office. The following individuals advised that no identifiable record could be located regarding the appointee, HERBERT EUGENE ELLINGWOOD.

[REDACTED] Trial and Grand Jury
Fraud and Major Crimes
Closed and pending cases

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Third Party

On July 2, 1985, IA [REDACTED] caused a search to be made of the pending and closed cases of the Civil Division of the U.S. Attorney's Office. [REDACTED] advised that no identifiable record could be located regarding the appointee, HERBERT EUGENE ELLINGWOOD. It should be noted that the index system of the Civil Division, U.S. Attorney's Office contains only names of plaintiffs, except in civil actions brought by the United States against a particular defendant. Suits against government employees who are represented by the United States Attorney would be filed by plaintiff's name and docket number.

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Third Party

On July 2, 1985, ROSE MILEO, Secretary, U.S. Attorney's Office, Washington, D.C., advised Special Agent (SA) [REDACTED] that the Principal Assistant U.S. Attorney, MR. RIODIN, is presently on vacation and would be unavailable for comment on the appointee, HERBERT EUGENE ELLINGWOOD.

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Third Party

On July 2, 1985, [redacted] Office of Public Integrity, U.S. Department of Justice, advised IA [redacted] that no identifiable record could be located regarding the appointee, HERBERT EUGENE ELLINGWOOD.

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On July 3, 1985, [redacted] Office of Security,
U.S. Department of Justice, Washington, D.C., advised IA [redacted]
[redacted] that no identifiable record could be located regarding the
appointee, HERBERT EUGENE ELLINGWOOD.

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Third Party

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On July 8, 1985, [REDACTED], Office of Professional Responsibility, U.S. Department of Justice, Washington, D.C., advised IA [REDACTED] that no identifiable record could be located regarding the appointee, HERBERT EUGENE ELLINGWOOD.

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Third Party

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On July 3, 1985, a query was made in the Washington Area Law Enforcement computer (WALES) and it was determined that no record was located for the METROPOLITAN POLICE DEPARTMENT concerning the appointee or relatives.

It is to be noted that at all times an indefinite number of unidentified records may not be in the computer and not available for review.

On July 3, 1985, IA [] determined that no record was contained in the DEPARTMENT OF TRANSPORTATION, Bureau of Motor Vehicle Services, Government of the District of Columbia files concerning the appointee.

On July 3, 1985, IA [] searched the files of the UNITED STATES PARK POLICE and no identifiable adult criminal record could be located regarding the appointee or relatives.

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Third Party

IA [] caused a search to be made of the files of the U.S. SECRET SERVICE, DEPARTMENT OF THE TREASURY, and was advised on July 2, 1985, that no record was found concerning the appointee.

MISCELLANEOUS

WFO 161B-14852

KHS:mye

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On July 1, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD:

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Third Party

JOYCE KEITH, Special Assistant to the Chairman at the Merit Systems Protection Board, stated that the appointee is currently in Dallas, Texas, and will remain there until July 9, 1985. She stated that since his departure, she has had daily contact with him. KEITH also stated that upon her next contact with the appointee, she will relay the FEDERAL BUREAU OF INVESTIGATION's (FBI) request for him to provide additional information concerning persons knowledgeable about the appointee.

FEDERAL BUREAU OF INVESTIGATION

b2
b7DDate of transcription 7/10/85

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On July 3, 1985, the following information was provided by a person, hereinafter referred to as [redacted] "he", who requested that his identity and the identity of his organization/agency remain confidential and not be disclosed outside the FEDERAL BUREAU OF INVESTIGATION (FBI). For convenience, [redacted] will be occasionally referred to as "he"; no inference regarding the sex of the source is to be made from this usage.

[redacted] his agency/organization, was contacted regarding [redacted] of the appointee. [redacted] with the Merit Systems Protection Board (MSPB). He advised that his agency/organization objects to the appointment of ELLINGWOOD, the current Chairman of the MSPB, to the position of Assistant Attorney General for Legal Policy. The objection is the result of ELLINGWOOD'S alleged idea of forming a group called a "TALENT BANK" made up of "Christians" or more specifically, members of the Christian Fundamentalist Movement. The purpose of the "TALENT BANK" is to serve as a "Christian" manpower pool to ensure that 25 percent of the federal government's employees are made up of "Christians". [redacted] emphasized that these "Christians", do not include other religious groups such as Protestants, Presbyterians, Lutherans, Catholics and other religious denominations. According to [redacted] ELLINGWOOD is strongly associated with the "AMERICAN COALITION FOR TRADITIONAL VALUES (ACFTV)." ACFTV is the group that is designated to monitor the "TALENT BANK". [redacted] has read two articles in the FEDERAL TIMES (issues dated 1/28/85 and 2/25/85) which support his allegations that ELLINGWOOD conceived the "TALENT BANK", although one of the articles relates ELLINGWOOD'S denial that he conceived a plan, relating ELLINGWOOD'S statement that he only played a minor role in the development of the concept.

[redacted] stated that his agency/organization has no specific complaints regarding ELLINGWOOD'S performance as Chairman of the MSPB as they consider him to be competent in his current position. Additionally, [redacted] knew of no instances wherein ELLINGWOOD demonstrated prejudices in the conduct of his official duties. However, in view of the power ELLINGWOOD would have

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Third Party Investigation on 7/3/85 at Washington, D.C. File # WFO 161B-14852-10

by SA [redacted] BFT:gb Date dictated 7/9/85

8/3 85

WFO 161B-14852-10

On 7/3/85

Page 2*

Continuation of FD-302 of

as Assistant Attorney General, [] agency/organization is deeply concerned over the appointee's association with a "TALENT BANK" concept and the possible prejudices he may demonstrate in his official decisions and selection of significant government personnel.

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corrected
copy attached

Continuation of FD-302 of WFO 161B-14852-10, On 7/3/85, Page 2*

as Assistant Attorney General, [] agency/organization is deeply concerned over the appointee's association with a "TALENT BANK" concept and the possible prejudices he may demonstrate in his official decisions and selection of significant government personnel.

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WFO 161B-14852
BPT:lr

b6

b7C

Third Party

On July 2, 1985, a copy of report GAO/AFMD-84-65, was secured from the United States General Accounting Office by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office. The subject of the report is "Inquiry into Allegations Against the Chairman Merit Systems Protection Board". A copy of the report is attached hereto.

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copy
attached

WFO 161B-14852
BPT:lr

On July 2, 1985, a copy of report GAO/AFMD-84-65, was secured from the United States General Accounting Office by Special Agent [REDACTED] FEDERAL BUREAU OF INVESTIGATION, Washington Field Office. The subject of the report is "Inquiry into Allegations Against the Chairman Merit Systems Protection Board". A copy of the report is attached hereto.

WFO 161B-14852
MDS:mye

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b7C
Third Party

The following investigation was conducted by
Special Agent (SA) [redacted] regarding HERBERT
EUGENE ELLINGWOOD:

On July 5, 1985, SA [redacted] contacted the
Office of Congresswoman SCHROEDER and was advised by ANDREW A.
FEINSTEIN, Chief Counsel and Staff Director, Subcommittee
on Civil Service, Committee on Post Office and Civil Service,
UNITED STATES HOUSE OF REPRESENTATIVES, that Ms. SCHROEDER
did not consider it proper for a personal interview regarding
Mr. ELLINGWOOD at this time, inasmuch as her contact with
him has been entirely through the investigation conducted
on his suitability as Head of the Merit Systems Protection
Board. He advised that she did not know him personally
or in any other capacity. FEINSTEIN requested an interview
on July 8, 1985, with ELLEN BATTISTELLI and the interviewing
Agent regarding Mr. ELLINGWOOD.

On July 8, 1985, ELLEN BATTISTELLI, Research
Assistant to Congresswoman SCHROEDER, provided the interviewing
Agent with copies of the following documents:

- 1) A letter from Congresswoman SCHROEDER, dated
June 2, 1984, to ELLINGWOOD, requesting his
resignation from the Merit Systems Protection
Board.
- 2) Staff Report of the Subcommittee on Civil
Service, Committee on Post Office and Civil
Service, the hiring of GRETCHEN W. THOMAS
by the United States Merit Systems Protection
Board, dated June 4, 1984.
- 3) A document dated June 6, 1984, from the UNITED
STATES GENERAL ACCOUNTING OFFICE to Congresswoman
PATRICIA SCHROEDER regarding the inquiry
into allegations against the Chairman (ELLINGWOOD)
of the Merit Systems Protection Board.

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WFO 161B-14852
MDS:mye

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The following investigation was conducted by
Special Agent (SA) [REDACTED] regarding HERBERT
EUGENE ELLINGWOOD:

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b7C

Third Party

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Office of Congresswoman SCHROEDER and was advised by ANDREW A.
FEINSTEIN, Chief Counsel and Staff Director, Subcommittee
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UNITED STATES HOUSE OF REPRESENTATIVES, that Ms. SCHROEDER
did not consider it proper for a personal interview regarding
Mr. ELLINGWOOD at this time, inasmuch as her contact with
him has been entirely through the investigation conducted
on his suitability as Head of the Merit Systems Protection
Board. He advised that she did not know him personally
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Service, with enclosures, concerning the hiring of
GRETCHEN W. THOMAS by the United States Merit Systems
Protection Board, dated June 4, 1984.
- 3) A document dated June 6, 1984, from the UNITED
STATES GENERAL ACCOUNTING OFFICE to Congresswoman
PATRICIA SCHROEDER regarding the inquiry
into allegations against the Chairman (ELLINGWOOD)
of the Merit Systems Protection Board

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- 4) A letter, dated January 29, 1985, from Congresswoman SCHROEDER to Dr. TIM AL HAYE, Executive Committee Chairman, AMERICAN COALITION FOR TRADITIONAL VALUES, 122 C Street, N. W., Suite 800, Washington, D. C. ✓
- 5) A letter from Congresswoman SCHROEDER, dated January 29, 1985, to CURTIS MAYNARD, Executive Director, AMERICAN COALITION FOR TRADITIONAL VALUES, 122 C Street, N. W., Suite 800, Washington, D. C.
- 6) A letter, dated January 29, 1985, to GARY JARMIN, Legislative Director, CHRISTIAN VOICE, 418 C Street, N. E., Washington, D. C.
- 7) A letter, dated January 29, 1985, to the Honorable HERBERT E. ELLINGWOOD, Chairman, United States Merit Systems Protection Board, 1120 Vermont Avenue, N. W., Washington, D. C.
- 8) A letter, dated January 29, 1985, to JAMES A. BAKER, III, Chief of Staff and Assistant to the President, WHITE HOUSE, 1600 Pennsylvania Avenue, N. W., Washington, D. C.
- 9) A letter, dated January 29, 1985, to JOHN S. HARRINGTON, Assistant to the President, Presidential Personnel, WHITE HOUSE, 1600 Pennsylvania Avenue, N. W., Washington, D. C.
- 10) A Xerox copy of an article in the "Federal Times," dated January 28, 1985, by LARRY COHLER, regarding ELLINGWOOD and others.
- 11) A letter of response, dated February 11, 1985, from HERBERT E. ELLINGWOOD.
- 12) A letter of response, dated January 31, 1985, from TIM LA HAYE.
- 13) A letter of response, dated February 4, 1985, from CURTIS MAYNARD.

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copy
attached

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- 12) A letter of response, dated January 31, 1985, from TIM LA HAYE.
- 13) A letter of response, dated February 4, 1985, from CURTIS MAYNARD.

14) A letter of response, dated February 6, 1985,
from GARY L. JARMIN..

15) A letter of response from JAMES A. BAKER,
dated January 31, 1985.

BATTISTELLI advised that she would decline making any recommendations regarding ELLINGWOOD's appointment. Rather than make any specific recommendation for further investigation, she would prefer to let the FEDERAL BUREAU OF INVESTIGATION (FBI) use its own discretion regarding additional investigation from the material she has provided. In a general sense, she said the appointee's role in the hiring of GRETCHEN THOMAS, his association with the "CHRISTIAN WORK-BANK" and his conducting Christian services or prayers in his office, the most questionable of his activities, have cast doubt on his suitability for nomination.

BATTISTELLI advised that no further active investigation has been conducted by himself other than what has been indicated in the supplied documents.

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ENCLOSURE

161-15392-86

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-29-2007 BY AUC 60324/BAW/STP/cld

PATRICIA SCHROEDER, COLO., CHAIRWOMAN
MORRIS K. UDALL, ARIZ.
KATIE HALL, IND.
GERRY BIKORSKI, MINN.
CHARLES PASHAYAN, JR., CALIF.
FRANK R. WOLF, VA.

U.S. House of Representatives
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING
Washington, D.C. 20515

TELEPHONE (202) 225-4026

June 4, 1984

Honorable Herbert E. Ellingwood
Chairman
Merit Systems Protection Board
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

Dear Mr. Chairman:

I have reviewed the enclosed staff report concerning the hiring of Gretchen W. Thomas by the Merit Systems Protection Board (MSPB). The report documents an appalling disregard by you for the merit system principles contained in 5 U.S.C. 2301. For any agency head, such disregard is inexcusable. For the Chairman of the Merit Systems Protection Board, this disregard of the merit system principles constitutes grounds for removal. I, therefore, call on you to resign as Chairman of the Merit Systems Protection Board.

The staff report relates the facts and circumstances surrounding the hiring of Gretchen W. Thomas by the Merit Systems Protection Board; it draws no conclusions. However, certain conclusions are inescapable:

1. Gretchen W. Thomas and her husband, Edwin, were close personal friends of yours.
2. In your conversations with MSPB Managing Director Richard Redenius and with San Francisco Regional Director A. Luis Lucero, you made it clear that you wanted Gretchen Thomas hired by MSPB.
3. There were no attorney-examiner positions at MSPB for which Gretchen Thomas was qualified and so a new position was created just for Ms. Thomas.
4. No other candidates were permitted to compete for the position created for Ms. Thomas.
5. Acting at your behest, top officials of MSPB ordered Mr. Lucero to hire Ms. Thomas.

161-15392-86

Hon. Herbert E. Ellingwood
June 4, 1984
Page 2

6. An Hispanic woman, who was the same age as Ms. Thomas, who had returned to law school after raising children, as had Ms. Thomas, and who, unlike Ms. Thomas, had legal experience, was first offered a job and then rejected in order to create a slot for Ms. Thomas.

7. No effort was made to verify the credentials Ms. Thomas claimed, despite the fact that the validity of those credentials was essential to support the grade of the position to which she was appointed.

8. The requirement for fair and open competition for selection for a Federal job was ignored by the Merit Systems Protection Board.

9. Throughout the investigation, you and Mr. Redenius attempted to blame lower level staff, specifically Jacqueline R. Bradley, the Assistant Managing Director for Regional Operations, and A. Luis Lucero, for the violations of the merit system principles involved in the hiring of Gretchen Thomas.

The Merit Systems Protection Board has three primary functions. First, it serves as a court for employee appeals of agency personnel actions. Second, it adjudicates cases brought by the Special Counsel in his role as protector of the merit system. Third, it oversees and comments on the operations of the merit system, through its review of Office of Personnel Management regulations, its annual report on the significant actions of that Office, and its special studies unit. In all of these functions, the Merit Systems Protection Board serves as the guardian of the merit system. You spoke of the importance of this role in your confirmation proceedings.

More than one hundred years ago, Congress abolished the spoils system and established in its place a personnel system based on merit principles. The fundamental tenets of that merit system are articulated in the merit system principles, enacted as part of the Civil Service Reform Act of 1978. The very first of these principles reads

Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. [5 U.S.C. 2301(b)(1)]

Hon. Herbert E. Ellingwood
June 4, 1984
Page 3

This principle applies with equal vitality to recruitment, selection, and advancement of attorneys in the excepted service as it does to the hiring of individuals from a register in the competitive service. It applies with special force to the Merit Systems Protection Board, the agency in government with the mandate to safeguard the merit system.

The recruitment and selection of Gretchen W. Thomas trampled this principle. The excuses offered by representatives of the Merit Systems Protection Board for this action are just not plausible. One excuse is that Gretchen Thomas was hired to create a better balanced workforce. Nevertheless, MSPB suffered from severe underrepresentation of Hispanic employees. To hire Ms. Thomas, Regional Director Lucero was forced to withdraw his offer of employment to an Hispanic woman who, like Ms. Thomas, had returned to school after raising children. If a balanced workforce was truly desired, this Hispanic woman would have been hired in preference to Ms. Thomas.

Another excuse is that, because of the urgency of the air traffic controller workload, staffing decisions had to be made quickly. Yet, the San Francisco Regional Office advertised for the three positions it was allotted and had numerous qualified candidates. Further, Gretchen Thomas, as a GS-11, was incapable of deciding air traffic controller cases and, thus, her hiring was of little use in clearing up the backlog.

Another excuse is that Regional Director Lucero was just hiring employees of the Equal Employment Opportunity Commission. In that the Equal Employment Opportunity Commission adjudicates cases similar to those under the jurisdiction of MSPB, these employees had the experience necessary to decide MSPB cases. Moreover, Mr. Redenius only intervened in San Francisco to veto the appointment of a specific individual.

Another excuse is that, since attorneys are excepted from the competitive service by congressional enactment, the Merit Systems Protection Board is entirely free of all competitive requirements in selecting lawyers. A logical extension of this notion would permit the entire Justice Department to be staffed with political appointees. Clearly, this is not what Congress intended when, in 1944, it barred the creation of a central Legal Examining Unit. Rather, this restriction is meant to preclude the Office of Personnel Management from establishing an examination to test applicants for attorney positions in the Federal government. Nothing in this restriction bars agencies from testing applicants for attorney positions. And, the merit system principles require competitive appointment.

Hon. Herbert E. Ellingwood
June 4, 1984
Page 4

Federal employees and agencies must have confidence in the Merit Systems Protection Board. They must believe that the Board is beyond reproach in its defense of merit system principles. Your involvement in the appointment of Gretchen W. Thomas has shattered that confidence. Your activity has rendered the actions of the Board suspect.

Therefore, for the sake of the merit system and the civil service system, I call on you to resign.

Sincerely,

PATRICIA SCHROEDER
Chairwoman

Enclosure

STAFF REPORT OF THE SUBCOMMITTEE ON CIVIL SERVICE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
ON THE HIRING OF GRETCHEN W. THOMAS
BY THE UNITED STATES MERIT SYSTEMS PROTECTION BOARD
JUNE 4, 1984

Introduction

Gretchen W. Thomas was hired as a GS-11 Attorney by the San Francisco Regional Office of the United States Merit Systems Protection Board (MSPB) in the late summer of 1982 and reported for duty on September 7, 1982. It was her first legal job after graduating from law school the previous December. The position for which she was hired was not advertised and no other applicants were considered, even though the San Francisco Regional Office was at the time advertising for attorney-examiners at the GS-12, GS-13, and GS-14 levels.

Gretchen Thomas is married to Edwin W. Thomas, who is the Administrator of Region IX of the General Services Administration in San Francisco. Mr. Thomas loaned Ursula Meese, the wife of Edwin Meese, \$15,000 in 1980. This loan was not reported on Mr. Meese's financial disclosure forms, as is required under the Ethics in Government Act of 1978. This omission led the Committee on the Judiciary of the United States Senate, which currently is considering the nomination of Edwin Meese to be Attorney General, to request the appointment of an Independent Counsel, prior to any action on the Meese nomination.

The Merit Systems Protection Board is charged with responsibility for adjudicating appeals from certain adverse actions taken against Federal employees, conducting special studies to ensure that "the public interest in a civil service free from prohibited personnel practices is being adequately protected," [5 U.S.C. 1205(a)(3)], and reviewing rules and regulations of the Office of Personnel Management (OPM) to ensure that they do not involve prohibited personnel practices. The MSPB must be an unquestioned defender of the merit system principles, contained in 5 U.S.C. 2301, to have credibility with the agencies and employees whose disputes it resolves. The importance of this role was recognized by MSPB Chairman Herbert E. Ellingwood in his response to the prehearing question during his confirmation proceedings of "What are the MSPB's most important functions?" Mr. Ellingwood responded, "Simply put, I believe the Board's most important functions are to . . . play an active role in protecting merit systems and merit principles from political and administrative abuse."

Upon learning of the employment of Gretchen Thomas by the Merit Systems Protection Board and in response to allegations of improper hiring practices, Chairwoman Patricia Schroeder of the Subcommittee on Civil Service, Committee on Post Office and Civil Service, United States House of Representatives, requested the

staff of the Subcommittee to investigate and determine whether the merit system principles were violated by the appointment of Gretchen Thomas. The Subcommittee on Civil Service has authorizing jurisdiction over the Merit Systems Protection Board and legislative jurisdiction over the merit system principles, enacted as part of the Civil Service Reform Act of 1978 (P.L. 95-454). A copy of the merit system principles are contained in Appendix A.

CONDUCT OF INVESTIGATION

The investigation was conducted by the staff of the Subcommittee on Civil Service, with Ellen Battistelli as the principal investigator for the majority and Stephen Hemphill as the principal investigator for the minority.

On March 20, 1984, Chairwoman Schroeder sent a letter containing 20 questions to A. Luis Lucero, the Regional Director of the San Francisco Regional Office of the Merit Systems Protection Board (Appendix B). On March 30, Paul E. Trayers, Legislative Counsel to the Board, responded (Appendix C). Many of the attachments referred to in that letter are contained as other appendices to this report. Some have been deleted in an effort to protect the privacy of applicants for employment and others have not been reproduced because they are not material to the report.

An addendum to Mr. Trayers' letter of March 30 was delivered on April 3, 1984 (Appendix D). Further, at the request of the Subcommittee staff, a list of the staff of the San Francisco office was provided on March 28 (Appendix E).

Ms. Battistelli and Mr. Hemphill conducted interviews in San Francisco on April 2 and 3, 1984, questioning fourteen of fifteen professional staff members of the San Francisco Regional Office. The one attorney not questioned was out of town on official travel. Among those questioned were Gretchen Thomas and A. Luis Lucero. Ms. Battistelli conducted further interviews in San Francisco on April 4.

Interviews were subsequently conducted in Washington, D.C. Ms. Battistelli and Mr. Hemphill interviewed Richard Redenius, the Managing Director of MSPB, on April 10 and Chairman Herbert E. Ellingwood on April 12. Andrew A. Feinstein, the Staff Director of the Subcommittee on Civil Service, and Mr. Hemphill interviewed Jacqueline Bradley, the Assistant Managing Director for Regional Operations, on April 30. Also on April 30, Mr. Feinstein interviewed Frederick L. Foley, Director of the Office of Personnel, and E. Al Simpson, Director of the Operations Division of the Office of Personnel.

This report summarizes the findings of the majority staff. It has not been officially approved by the Subcommittee and, therefore, may not necessarily reflect the views of all of its members.

FINDINGS

1. Herbert E. Ellingwood, Chairman of the Merit Systems Protection Board, has been a close friend of Edwin and Gretchen Thomas, as well as of Edwin and Ursula Meese, for at least 15 years. Mr. Ellingwood worked with Edwin Thomas in the administration of then California Governor Ronald Reagan. Mr. Ellingwood and Mr. Meese were college classmates at Yale, served together in the Army, and literally worked side-by-side in the District Attorney's office in Alameda County, California. A copy of the biographical and financial information provided by Mr. Ellingwood to the Senate Committee on Governmental Affairs for his confirmation proceedings in 1982 (Appendix F).

2. Gretchen Thomas was a student at San Diego Law School when Ronald Reagan was sworn in as President. When her husband, Edwin, moved to Washington, D.C., in the late spring of 1981, she accompanied him and finished her law school course work at the Columbus School of Law, Catholic University, Washington, D.C. As part of her coursework, Ms. Thomas became a legal intern for Mr. Ellingwood, then a Deputy Counsel to the President. Ms. Thomas worked for Mr. Ellingwood from late August 1981 through December 1981, averaging eight to ten hours a week. She received no compensation for this internship, but did receive academic credit. Appendix G contains the correspondence between Catholic University and the White House concerning Ms. Thomas' internship. Ms. Thomas graduated from San Diego Law School in December 1981. Her husband returned to California shortly thereafter when he was appointed Regional Administrator of Region IX of the General Services Administration in San Francisco on March 1, 1982. Ms. Thomas took the California bar examination in February 1982 and was admitted to the bar in June of that year.

3. Sometime in March or April of 1982, Gretchen Thomas travelled to Washington. She had a lengthy meeting with Mr. Ellingwood, who was serving as Chairman of the Merit Systems Protection Board, in his office at MSPB. On December 14, 1981, President Reagan had nominated Mr. Ellingwood to be Chairman of MSPB and, since Congress was out of session, exercised his prerogative to make recess appointments by appointing Mr. Ellingwood to serve as Chairman pending his confirmation by the Senate. Mr. Ellingwood's recess appointment became effective on December 18, 1981. He was not confirmed by the Senate until May 6, 1982. According to both Ms. Thomas and Mr. Ellingwood, during the course of the conversation between them, the topic of Ms. Thomas' future plans came up. Mr. Ellingwood suggested that she pursue trial practice, but Ms. Thomas said she would prefer less taxing work. Mr. Ellingwood then suggested a position with the Attorney General of the State of California. Mr. Ellingwood recommended the name of a man she could call there. Ms. Thomas called the man and found out that no job would be available until October. Mr. Ellingwood also suggested work at the Merit Systems Protection Board. Over the next several months, Mr. Ellingwood

kept tabs on her job search. In June or July of 1982, Mr. Ellingwood once again inquired about her interest in working at MSPB. At this point, Ms. Thomas expressed interest and sent copies of her resume to Mr. Ellingwood and to the San Francisco Regional Office of MSPB. On this resume (Appendix H), Ms. Thomas stated that she was in the top third of her law school class. This superior law school credential was essential to justify a GS-11 position for an inexperienced attorney, pursuant to government-wide regulations on the hiring of entry level attorneys. It is not clear who told Ms. Thomas of the necessity of including this qualification on her resume.

4. The Merit Systems Protection Board was created in 1979 by Reorganization Plan No. 2 of 1978 (92 Stat. 3783) and the Civil Service Reform Act of 1978. Organizationally, the MSPB was created by consolidating the Federal Employees Appeals Authority and the Appeals Review Board of the old Civil Service Commission. The initial employees of each regional office had come out of the old Federal Employees Appeals Authority. Once the Board was on its own, it made some important changes. One change was to require all presiding officials to be attorneys. This led to the attrition of a number of the Appeals Authority employees. This substantial change in the agency created major transitional management problems and also led to a deterioration in morale in the regional offices. The insecurity which this change caused in regional offices was heightened by the autocratic management style of Paul D. Mahoney, who was, until early 1982, the Deputy Managing Director, with responsibility for the regions.

5. On April 26, 1982, A. Luis Lucero became Regional Director of the San Francisco Regional Office. He had formerly been the Regional Director in Seattle. Mr. Lucero took over the San Francisco office at a critical time. He was the fourth regional director since the office opened in late 1979. The office had a history of management problems, a massive backlog of cases, and a huge workload. The office was understaffed and housed in one large room, with partitions providing the only privacy for the attorneys in the office. At the time of his appointment as Regional Director, Mr. Lucero faced 1,490 pending air traffic controller appeals, hundreds of backlogged non-air traffic controller cases, and 85 to 90 incoming cases each month. Prior to Mr. Lucero's appointment, the San Francisco office had gone through three regional directors. Bert J. Deutsch, the first Director, resigned in December 1981. David Corsi, a presiding official, was Acting Regional Director for two months until Lawrence E. Shearer became Acting Regional Director in February 1982. He was replaced by Mr. Lucero. Mr. Lucero had initially been hired from the Equal Employment Opportunity Commission (EEOC) in Seattle by Jacqueline Bradley, who was then Acting Regional Director for Seattle, in July 1980. Mr. Lucero had become the Seattle Regional Director in November 1980. His performance there led to his selection as the Regional Director of the San Francisco region, which is much larger than the Seattle region.

6. Richard Redenius worked out of the Office of Management and Budget on the task force drafting the legislation which was to become the Civil Service Reform Act of 1978. He started with the Merit Systems Protection Board when it opened its doors on January 11, 1979. He has been the Board's first and only Managing Director. In 1982, he had two operating managers reporting to him: Jacqueline R. Bradley, the Assistant Managing Director for Regional Operations, and Paul D. Mahoney, the Assistant Managing Director for Management. Mr. Mahoney, who previously had authority over the regions, had been stripped of that authority. The United States Court of Appeals for the District of Columbia severely criticized Mr. Redenius in reversing his removal of the Chief Appeals Officer of the Washington Field Office of the Merit Systems Protection Board. In its decision in Lanphear v. Prokop, 703 F.2d 1311 (1983), the court questioned Mr. Redenius' credibility and castigated his handling of the removal (Appendix I).

7. Although Mr. Redenius, together with Ms. Bradley and Mr. Ellingwood, hired Mr. Lucero as Regional Director, Mr. Redenius said he had serious questions about Mr. Lucero's ability to handle the job. According to Mr. Redenius, Mr. Lucero would have to prove himself: "He would not just get a free ride." Mr. Redenius said that he was ready to fire Mr. Lucero in February 1984 but, because of congressional and media interest in the Gretchen Thomas case, he was now unable to take such an action. Mr. Redenius did concede that the San Francisco office had met the major hurdles of completing its air traffic controller cases and reducing its backlog under the leadership of Mr. Lucero.

8. Within a week of receiving Ms. Thomas' resume, Mr. Ellingwood gave a copy of it to Richard Redenius, Managing Director of MSPB. Chairman Ellingwood and Mr. Redenius both say the resume was transmitted without recommendation and in a non-directive manner. Chairman Ellingwood states that he has given perhaps two dozen resumes to MSPB office directors, all without recommendations. The Subcommittee has asked for a list of those resumes; Chairman Ellingwood has said he kept no records. The Subcommittee has identified only two other individuals whose resumes were passed along by Mr. Ellingwood. In one case, a young lawyer Mr. Ellingwood knew from the Christian Legal Society wrote to Mr. Ellingwood regarding a job. The resume found its way to the San Francisco Regional Office, but the individual was neither interviewed nor hired. In the other case, the resume of Barbara J. Benjamin, who had worked at the Interstate Commerce Commission, was passed along to Jacqueline Bradley, Assistant Managing Director for Regional Operations. Ms. Bradley hired Ms. Benjamin as a GM-14 Attorney in her office. Ms. Bradley states she knew that Ms. Benjamin and Mr. Ellingwood were involved in religious activities together.

9. On August 3, 1981, over 11,000 air traffic controllers went out on strike against the government. Striking against the government is prohibited by section 7311 of title 5, United States

Code. A few days later, they were all fired for participating in this action. By the winter of 1982, it was clear that the MSPB would be deluged with appeals from over 11,000 fired controllers. The Administration responded to MSPB's pleas for additional resources by requesting a supplemental appropriation of \$4 million to fund additional full-time positions at MSPB to handle the air traffic controller workload. Although this supplemental request was transmitted as part of the President's budget on February 8, 1982, final congressional action did not occur until mid-July. Indeed, in a continuing resolution passed on December 15, 1981 (P.L. 97-92), MSPB and certain other agencies had suffered a 15% across-the-board cut retroactive to October 1, 1981. So, in the midst of cancelling travel and new hirings, and planning furloughs, top officials at the Merit Systems Protection Board began to develop plans to hire quickly additional staff once the supplemental appropriations bill became law. To be able to bring staff on board quickly so that the full appropriations could be utilized, hiring authority was decentralized to the regional directors and administrative officers. While each office would be able to do its own hiring, final approval of each new hire remained at headquarters and slots continued to be allocated by the Managing Director, Mr. Redenius. Because regional directors and administrative officers were inexperienced in hiring, Frederick L. Foley, the Acting Director of the Personnel Management Division, distributed a memorandum on the recruitment of attorney-examiners to these individuals on March 9, 1982. This memorandum, which is Appendix J, described the use of vacancy announcements, the length of time an announcement should remain open, the qualification requirements for appointees, the use of ranking factors, and the procedure for final approval by headquarters.

10. Attorney positions in the Federal government are excepted from the competitive service because they are positions "for which it is not practicable to examine" [5 C.F.R. 213.3101(a)]. This exception is imposed by an appropriations restriction which has been in effect since 1944. The legislation was a reaction to an effort by President Franklin D. Roosevelt to place attorneys in the competitive service. His effort grew out of a Report of the President's Committee on Civil Service Improvement [House Document No. 118, 77th Congress, 1st Session (1941)]. Acting on that report, President Roosevelt created, by Executive order, a Legal Examining Board, to test attorneys and bring them into the competitive service. In 1944, Congress acted to bar the Civil Service Commission from setting up such a Legal Examining Board and has extended the ban every year since. According to a 1979 Justice Department memorandum (Appendix K) to Alan K. Campbell, Director of the Office of Personnel Management, OPM can have no role in requiring agencies to use any sort of a numerical rating system with regard to attorney hiring. On the other hand, the Justice Department memorandum points out that

. . . it should be noted that while OPM is barred by its appropriation legislation from implementing attorney

examination systems, this bar does not extend to other agencies, not similarly restricted, that might wish to implement or experiment with rating or other examining systems in their own attorney hiring procedures.

[Attachment to Federal Personnel Manual Letter 302-5, page 11 (1979)]

While attorney positions are excepted from competitive examination, they remain covered by the merit system principles, particularly the first one which reads

Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. [5 U.S.C. 2301(b)(1)]

Open competition and competitive selection apply with equal vigor to the appointment of attorneys in the Federal service as they do to the appointment of competitive service employees. The congressional ban merely prohibits the Office of Personnel Management from establishing a uniform examination and requiring agencies to select attorneys from registers.

11. On April 2, 1982, the San Francisco Regional Office of the Merit Systems Protection Board published vacancy announcement number 82-10 for attorneys at the GS-12, GS-13, and GS-14 levels (Appendix L). For the lowest advertised grade, a GS-12, the applicant was required to be a law school graduate, have a membership in a bar, and either have two years of professional legal experience, or an LL.M. plus one year of legal experience, or superior law student work plus one year of legal experience. These requirements are set in MSPB Order No. 1412.1 (Appendix M). The job announcement was distributed widely through local bar associations, law schools, and minority and women's groups, as well as the normal OPM distribution network. This vacancy announcement was to fill the three slots which were to be allotted to the San Francisco Regional Office once the supplemental appropriations bill became law. The Regional Office was only interested in hiring experienced attorneys because only those at the GS-13 level and above were permitted to handle MSPB cases involving the removal of Federal workers. All 11,000 air traffic controller cases were such removal cases. No GS-11 position was advertised or contemplated.

12. During April 1982, at least 15 resumes and SF-171s (the Federal government's standard job application form) of attorneys came into the San Francisco Regional Office in response to the vacancy announcement. It is exceptionally hard to recreate the selection process because the files are confused and incomplete. The Subcommittee has been provided with the following: 20 resumes or SF-171s received in response to the vacancy announcement; a

list of 14 people interviewed a total of 18 times; a contemporaneous listing of 20 SF-171s, which contains the names of six individuals for whom no SF-171s were provided; and copies of seven letters sent by Mr. Lucero to applicants, five of which went to individuals whose names did not appear on the contemporaneous list and for whom no resumes were supplied. The entire recruitment and selection process extended from April through August of 1982. While most SF-171s arrived during April, immediately after the posting of the vacancy announcement, others came in later. Indeed, two of the four individuals ultimately hired for permanent positions sent in their SF-171s in late June and late July, respectively.

13. Lawrence Shearer, who was Acting Regional Director until late April 1982, interviewed three candidates, one of whom was Jennifer Gee, one of the four finally hired. Between May and June, A. Luis Lucero, the new Regional Director, reinterviewed Ms. Gee and the other two applicants already interviewed by Mr. Shearer, and interviewed ten more job seekers, including LuNell Anderson, who was also hired in August. Besides Ms. Gee and Ms. Anderson, Samuel A. Vitaro and Gretchen Thomas would be hired. Mr. Vitaro was recruited by Mr. Lucero who knew him from working with him at the Equal Employment Opportunity Commission in Seattle. Mr. Vitaro sent Mr. Lucero his resume on June 28. He was not interviewed in person, although the recommendations he provided were superb. Ms. Thomas' resume did not reach the San Francisco office until July 28 and Mr. Lucero did not interview her until early August. However, Mr. Lucero had been on the lookout for Ms. Thomas' resume for quite some time, having been alerted to it by Chairman Ellingwood.

14. Chairman Ellingwood visited the San Francisco Regional Office at the time Mr. Lucero became Regional Director on April 26, 1982. One of the things Mr. Ellingwood was doing in San Francisco was lobbying Edwin Thomas, the GSA Regional Administrator, for better office space for the MSPB Regional Office. The San Francisco Regional Office had long been housed in a single room which was divided by partitions. The Board sought space which afforded private offices for the attorneys. Chairman Ellingwood introduced Mr. Lucero to Mr. Thomas during that visit. During the meeting between Edwin Thomas, Herbert Ellingwood, and A. Luis Lucero, the three discussed Gretchen Thomas and the fact that she was a recent law school graduate looking for a job. In June, GSA informed MSPB that it had arranged for a substantial improvement in office space for the MSPB Regional Office. The Regional Office moved in September 1982.

15. Mr. Lucero remembers a number of conversations between Chairman Ellingwood and himself subsequent to their meeting in late April and prior to the hiring of Ms. Thomas in early August. During each of those conversations, Mr. Ellingwood mentioned the job search of Gretchen Thomas. Mr. Lucero believed that Mr. Ellingwood wanted Gretchen Thomas hired by the San Francisco Regional Office. At one point, Mr. Lucero told Mr. Ellingwood

that Ms. Thomas did not have the necessary qualifications for any available job in San Francisco. According to Mr. Lucero, Mr. Ellingwood indicated that this did not matter and that Mr. Lucero should "back off."

16. In early June of 1982, Chairman Ellingwood, Mr. Redenius, and Ms. Bradley met to discuss the imminent hiring surge planned by the Board as soon as the supplemental appropriations bill became law. The discussion revolved around building a balanced workforce. Since the new hiring of 54 people would be a large augmentation of the Board, the three discussed equal employment opportunity representation. According to the Affirmative Action Program Plan of the Board, submitted to EEOC on December 17, 1981, Hispanics were grossly underrepresented at the Board. The regional offices had a total workforce of 148, but only had five Hispanic employees. Ms. Bradley was tasked with calling the regional directors to find out who each of the regional offices planned to hire.

17. Mr. Lucero informed his Washington superior, Jacqueline Bradley, that his goal was to hire the best qualified, most experienced individuals he could find. He said he planned to hire Jennifer Gee, Samuel Vitaro and a 44 year old Hispanic woman, who shall be called Ms. A to protect her privacy, for his three new slots. All three had recent experience with the Equal Employment Opportunity Commission, Mr. Vitaro in Seattle and the other two in San Francisco. Ms. Gee, 33, was hired as a GS-13, the same grade as the job she held at the San Francisco office of the EEOC as a trial attorney. She had worked at EEOC since 1972. Mr. Vitaro, 39, was hired as a GS-14, the same grade he held in the Seattle office of EEOC. He had worked at EEOC since 1978. Ms. A was born in 1937, the same year as Gretchen Thomas. Like Ms. Thomas, she had returned to school in her late 30's to become a lawyer. She had received honors in law school and, most importantly to Mr. Lucero, she had two years of litigation experience in a private firm after leaving EEOC, where she worked from 1974 to 1980. Ms. A was to be hired as a GS-12.

18. On July 20, 1982, Ms. Bradley called Mr. Lucero and told him to hold up on the hiring, according to both Ms. Bradley and Mr. Lucero. Mr. Redenius had a problem with Mr. Lucero's decision to hire all his new employees from the EEOC and wanted other individuals considered. Indeed, Mr. Redenius told Subcommittee investigators that he was not going to sit still while all these people were being brought in from EEOC. He reported he had a similar problem with the Philadelphia Regional Office and a related problem in Boston, where the Regional Director was hiring people who had worked for labor unions. Mr. Redenius said his problem was the mix of employees and that the bad management features of EEOC might be imported into MSPB. Mr. Redenius also said it was his policy to have a mix of experience and grade levels among attorneys at MSPB. Ms. Bradley said that such a policy was important for the future of the organization. Mr. Lucero, however, said he was never informed that there was such a

policy. He said that such a policy would undercut the ability of the regional offices to process their cases in a timely manner. A number of employees of the San Francisco Regional Office expressed the belief that EEOC employees were considered too liberal for the conservative Chairman, Mr. Ellingwood. Ms. Bradley told Mr. Lucero that Mr. Redenius was coming out to San Francisco to interview Mr. Lucero's candidates. While Mr. Redenius did come to San Francisco to interview two of the candidates selected by Mr. Lucero, he made no similar visits to Philadelphia or Boston.

19. Mr. Redenius arrived in San Francisco late on July 26, 1982, and interviewed Ms. A and Ms. Gee on July 27. He told Mr. Lucero that he liked Ms. Gee better and that he was concerned about too many appointees coming from EEOC. Mr. Redenius said he did not believe that Ms. A had the necessary professional experience and that other applicants should be considered. Mr. Redenius denies that he ordered Mr. Lucero to withdraw his offer to Ms. A. Nevertheless, Mr. Lucero understood that to be the message and telephoned Ms. A to tell her that he was forced by headquarters to withdraw his offer. Mr. Lucero then offered his third slot to LuNell Anderson instead. Ms. Anderson was a 33-year old lawyer who had worked as a GS-14 for the Board of Immigration Appeals of the Department of Justice. She had worked for the government since 1975. She was offered a position as a GS-13.

20. The resume of Gretchen Thomas arrived in the mail at the San Francisco Regional Office on July 26, 1982. This was just prior to Mr. Redenius' visit. Neither Mr. Redenius nor Mr. Lucero can remember whether Mr. Redenius brought a copy of Ms. Thomas' resume to San Francisco with him. Both suggest it is possible. At the time, no GS-11 position had been advertised and none was being considered in the San Francisco Regional Office.

21. After Mr. Redenius' visit, Mr. Lucero was angry and upset. He was upset because he had to withdraw the offer he had already made to Ms. A. Mr. Lucero was upset because Mr. Redenius was undercutting Mr. Lucero's authority. Mr. Lucero felt that Mr. Redenius was involving himself in the hiring decisions of the San Francisco office, prerogatives which Mr. Lucero had been led to believe belonged to him. And, Mr. Lucero was upset because he felt pressure to hire Gretchen Thomas. When Ms. Thomas' resume arrived on July 26, Mr. Lucero called Ms. Bradley and asked whether Gretchen Thomas was a "must hire". Ms. Bradley recognized that this was an unusual question. Indeed, it was the first and only time in her career as a manager that this question had been asked. She told Mr. Lucero she would get back to him.

22. Ms. Bradley then had a meeting with Mr. Redenius. While neither Ms. Bradley nor Mr. Redenius can pin down the exact date, it occurred sometime between the time Mr. Redenius returned to Washington on July 28 and August 16, the day the San Francisco office sent the request for the appointment of Gretchen Thomas into headquarters. Neither participant in the meeting has a clear recollection of what was said. Ms. Bradley did say it would be

uncharacteristic of Mr. Redenius to order her to tell Mr. Lucero to hire Ms. Thomas. Mr. Redenius said, "I'm much too cautious" to say who must be hired. Nevertheless, immediately after the meeting, Ms. Bradley called Mr. Lucero to tell him that Ms. Thomas was a "must hire" but that an additional slot would be provided to San Francisco, so that Mr. Lucero would not have to renege on another commitment. Both Mr. Redenius and Ms. Bradley state that this extra slot was added to mollify Mr. Lucero. Clearly, Mr. Lucero was delighted to receive the additional staff slot because he needed the people to process his cases. He was concerned, however, that Ms. Thomas was not able, due to her grade, to adjudicate air traffic controller and other removal cases. Mr. Redenius told Subcommittee investigators that Ms. Bradley misunderstood his instructions and the message that Ms. Thomas was a "must hire" was Ms. Bradley's mistake. Ms. Bradley ended her conversation with Mr. Lucero by saying, "I guess this is the price you have to pay for nice office space," referring to the fact that Ms. Thomas' husband, Edwin, had arranged better office space for MSPB-in San Francisco. No vacancy announcement had been made for a GS-11 position, the grade being offered to Ms. Thomas, and consequently, no other applicants for a GS-11 position were considered. Mr. Lucero did interview Ms. Thomas during the week of August 2, 1982. However, he retained no notes of that interview. In answer to the question of why Ms. Thomas was hired for a position especially created for her, Paul E. Trayers, Legislative Counsel to MSPB, stated in a letter to Chairwoman Schroeder on April 3, 1984,

Mrs. Thomas was one of four applicants selected for newly established attorney positions in the San Francisco Regional Office. She was chosen consistent with the Board's overall appointment plan to hire candidates with diversified backgrounds and experience levels who could fill various attorney-examiner grades in that office. That assessment was based on the Board's obligation to adjudicate not only the expected ATC [air traffic controller] appeals but also the relatively routine appeals which would otherwise constitute the bulk of the regional office's case load. It was incumbent on the Board to distribute its resources in a cost-effective manner which required balancing the need to process adverse action appeals by experienced attorney-examiners and routine cases by entry level attorneys.

It is in this context that Mr. Redenius became involved in the hiring practices of several regional offices including the San Francisco Regional office. Because of his concern that these recruiting goals were not being adequately addressed in those offices, he reviewed some of the applications personally and became involved in interviewing several candidates. His involvement in San Francisco led him to dissuade Mr. Lucero from hiring some of the applicants and to

reconsider others. He also concluded based on previous backlogged problems in San Francisco that an additional attorney-examiner position should be allocated.

23. When the paperwork for Ms. Thomas came to Washington on August 16, 1982, E. Al Simpson, Director of the Operations Division of the Office of Personnel, reviewed it for the GS-11 appointment. The Federal Personnel Manual, published by OPM, requires the hiring of most entry level attorneys as GS-9s (Appendix N). Individuals can only be hired at GS-11 if they meet a superior law student requirement, including "Academic standing in the upper third of the law school graduating class." The resume of Ms. Thomas stated that she "graduated in approximately top third of class." Neither the San Francisco office nor headquarters of MSPB made any effort to verify the accuracy of this claim. Due to privacy considerations, Subcommittee investigators were unable to verify this claim, as well. Mr. Frederick L. Foley, the Director of the Office of Personnel, states that hiring was going on at such a rapid pace during August of 1982 that it was impossible to verify the qualifications of any applicant. The job of the Personnel Office was to check to make sure the qualifications on paper were sufficient to meet the regulatory requirements.

24. Gretchen Thomas, Samuel Vitaro, LuNell Anderson, and Jennifer Gee all entered on duty on September 5, 1982. Ms. Thomas' initial pay was \$23,566. Mr. Vitaro was a GS-14, Ms. Anderson and Ms. Gee were GS-13s. Ms. Thomas was the only permanent GS-11 attorney in the agency nationwide. All reported to Washington for two days of training at a "refresher course for federal attorneys in the art of writing clearly and succinctly with a review of legal citation as found in the Harvard Bluebook. Course will aid in improving employee skills in legal writing and citing the law." Ms. Thomas received a periodic within grade increase in September 1983 and was promoted to a GS-12 on October 2, 1983. This raised Ms. Thomas' pay from \$25,325 to \$29,374. Both Ms. Anderson and Ms. Gee had expected promotions around this time, but did not receive them until March 25, 1984, and April 15, 1984, respectively. These promotions occurred simultaneously with the advent of this investigation. Ms. Thomas received her performance appraisal on September 2, 1983, which rated her as "Fully Satisfactory", the middle rating on a five point scale (Appendix O). Mr. Lucero, Ms. Bradley, and Mr. Redenius all agree that it was the decision of Mr. Lucero alone to promote Gretchen Thomas.

25. As of April 4, 1984, Mr. Vitaro, Ms. Gee, Ms. Anderson, and Ms. Thomas continue to work at the San Francisco Regional Office. Mr. Lucero remains Regional Director, although Mr. Redenius told Subcommittee investigators that he had been planning on firing Mr. Lucero and that this investigation would probably prevent him from doing so.

LIST OF APPENDICES

- A Merit system principles (5 U.S.C. 2301).
- B Letter from Rep. Pat Schroeder, Chairwoman, Subcommittee on Civil Service, to A. Luis Lucero, Regional Director, MSPB San Francisco Region, March 20, 1984.
- C Letter from Paul E. Trayers, Legislative Counsel to Merit Systems Protection Board, to Rep. Pat Schroeder, March 30, 1984.
- D Letter from Paul E. Trayers, Legislative Counsel to Merit Systems Protection Board, to Rep. Pat Schroeder, April 3, 1984.
- E List of employees at San Francisco Regional Office, MSPB, March 28, 1984.
- F Biographical and Financial Information concerning Herbert E. Ellingwood, submitted to Committee on Governmental Affairs, United States Senate, March 18, 1982.
- G Correspondence between the White House and Catholic University concerning internship of Gretchen Thomas, Fall, 1981.
- H SF-171 and resume of Gretchen W. Thomas dated, June 29, 1982.
- I Lanphear v. Prokop, 703 F.2d 1311 (1983).
- J Memorandum of Frederick L. Foley, Acting Director, Personnel Management Division, to Regional Directors and Administrative Officers and Assistants, MSPB, concerning recruitment of attorney-examiners, March 9, 1982.
- K Federal Personnel Manual Letter 302-5 on Exemption of Attorney Positions from Procedural Requirements for Appointments in the Excepted Service, containing Memorandum for Alan K. Campbell, Director of Office of Personnel Management, from Assistant Attorney General John M. Harmon, April 10, 1979.
- L Merit Systems Protection Board Vacancy Announcement 82-10, for Attorney-Examiners, GS-905-12/13/14, at San Francisco Regional Office, April 2, 1982.

M Merit Systems Protection Board Order No. 1412.1,
concerning policy and procedures for the employment and
advancement of attorneys. February 2, 1981.

N Subchapter 3 of Chapter 930, Federal Personnel Manual,
"Hiring Pattern for Entrance-Level Attorney and Law
Clerk Positions," December 31, 1980.

O Performance Appraisal of Gretchen W. Thomas,
Attorney-Examiner, GS-11, San Francisco Regional Office,
Merit Systems Protection Board, September 2, 1983.

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CHAPTER 23—MERIT SYSTEM PRINCIPLES

Sec.

- 2301. Merit system principles.
- 2302. Prohibited personnel practices.
- 2303. Prohibited personnel practices in the Federal Bureau of Investigation.
- 2304. Responsibility of the General Accounting Office.
- 2305. Coordination with certain other provisions of law.

§ 2301. Merit system principles

(a) This section shall apply to—

- (1) an Executive agency;
- (2) the Administrative Office of the United States Courts; and
- (3) the Government Printing Office.

(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

- (8) Employees should be—
 - (A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and
 - (B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.
- (9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—
 - (A) a violation of any law, rule, or regulation, or
 - (B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
- (c) In administering the provisions of this chapter—
 - (1) with respect to any agency (as defined in section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and
 - (2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives; which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles. (Pub. L. 95-454, Oct. 13, 1978, 92 Stat. 1113.)

PATRICIA SCHROEDER, COLO. CHAIRWOMAN

MORRIS E. UDALL, ARIZ.
KATIE HALL, IND.
GERRY SIKORSKI, MINN.CHARLES PASHAYAN, JR., CALIF.
FRANK R. WOLF, VA.

U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515

TELEPHONE (202) 225-4026

March 20, 1984

Mr. A. Luis Lucero
Regional Director
U.S. Merit Systems Protection Board
525 Market Street
San Francisco, California 94105

Dear Mr. Lucero:

The House Civil Service Subcommittee is extremely interested in the circumstances surrounding the employment of Ms. Gretchen Thomas, an attorney-examiner with the San Francisco Regional Office of the Merit Systems Protection Board. We request copies of all materials related to the hiring of Ms. Thomas for this position. Specifically, please provide the following information:

- 1) Any documentation that established the job including an explanation of how the job was established and who established it.
- 2) Whether this was an existing position that became vacant or a newly created slot. If it was an existing position, please provide information on who held the job previously and why and when this individual left.
- 3) A copy of the SF 52 and any notes, records, or correspondence associated with the Request for Personnel Action (SF 52).
- 4) A copy of the job announcement for this particular position and copies of all other job announcements for all similar positions in the San Francisco Regional Office during the last two years.
- 5) A copy of the position description with the OF-8 cover form.
- 6) A copy of Ms. Thomas' application, her SF-171, and all other supporting documentation and records.
- 7) A copy of all other applications for the position, the SF-171's of these applicants, and any supporting documentation and records.
- 8) A complete description of the selection process involved and a copy of the MSPB regulations governing selections under FPM Chapter 335.

Mr. A. Luis Lucero
Regional Director
U.S. Merit Systems Protection Board
March 20, 1984
Page 2

- 9) A copy of the crediting plan for the position and any documentation that supports the validity of this crediting plan including a job analysis and any pilot tests with the crediting plan.
- 10) Which individual developed the crediting plan.
- 11) The individual or individuals who rated Ms. Thomas' application, as well as the individual or individuals who rated each of the other applications.
- 12) A description of how Ms. Thomas' application was received. Please provide a complete list of all individuals within MSPB who had contact with Ms. Thomas during the application and selection process indicating the type of contact involved.
- 13) A complete description of the distribution of the job announcement including a list of every individual and group sent an announcement and where and when each announcement was posted.
- 14) A copy of the recruiting plan for the announcement.
- 15) The raw scores and final ratings for each applicant and any notes and documents associated with the rating and ranking process.
- 16) The identity of each individual interviewed for the job and the location and date each interview took place. The identity of the MSPB official who conducted each interview. Please provide copies of all interview notes and records.
- 17) Copies of all letters and forms that went out to those who applied regarding the selection or non-selection for the position; include copies of all correspondence with Ms. Thomas.
- 18) A description of the date and format in which you notified the headquarters of MSPB of the selection of Ms. Thomas. Please provide copies of any materials related to this notification.
- 19) Copies, records or notes of all communication between the regional office and anyone pertaining to the application and hiring of Ms. Thomas including anything from Edwin Meese and Herbert Ellingwood.

Mr. A. Luis Lucero
Regional Director
U.S. Merit Systems Protection Board
March 20, 1984
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20) A complete explanation of why Ms. Thomas was chosen over all other applicants.

I ask that we receive this material no later than Friday, March 30, 1984. If you have any questions concerning this request, please contact Ellen Battistelli at 202-225-4025.

Sincerely,

PATRICIA SCHROEDER
Chairwoman



U.S. MERIT SYSTEMS PROTECTION BOARD
Washington, D.C. 20419

March 30, 1984

Honorable Patricia Schroeder
Chairwoman
Subcommittee on Civil Service
Committee on Post Office
and Civil Service
U.S. House of Representatives
Washington, D.C. 20515

Dear Madam Chairwoman:

Your letter of March 20 to Mr. A. Luis Lucero, Regional Director of the San Francisco Regional Office, has been referred to me for reply. Inasmuch as various Board offices were involved in preparing responses to your questions and to facilitate a prompt response, it was determined that this office would be the appropriate focus for your inquiries.

In response to each inquiry, the following information is provided:

1. Any documentation that established the job including an explanation of how the job was established and who established it.

Recruitment for attorney-examiners and support staff in all regional offices commenced in March, 1982. The increase was necessary to process the over 11,000 Air Traffic Controller appeals filed in late 1981. Jacqueline R. Bradley, Assistant Managing Director for Regional Operations, advised each Regional Director how many positions they would be able to fill once a supplemental appropriations bill was enacted. Each director had the discretion to determine how his allotment would be filled, based on the timing of the availability of funds. The San Francisco Regional Office was originally authorized ten positions. However, an additional position was added based on two factors; the late passage of the supplemental which permitted the Board to allot another vacancy in San Francisco, and previous problems with backlogged cases in that office in comparison to other regions.

2. Whether this was an existing position that became vacant or a newly created slot. If it was an existing position, please provide information on who held the job previously and why and when this individual left.

No attorney-examiner vacancies in the San Francisco Regional Office existed when the new positions were allocated, four of which were attorney-examiner positions. Ms. Thomas was hired to one of the new positions during the ATC staff buildup.

3. A copy of the SF 52 and any notes, records, or correspondence associated with the Request for Personnel Action (SF 52).

We have attached a copy of the SF-52, Request for Personnel Action. No other notes, records or correspondence are in the Office of Personnel or the San Francisco Regional Office.

4. A copy of the job announcement for this particular position and copies of all other job announcements for all similar positions in the San Francisco Regional Office during the last two years.

A copy of Vacancy Announcement No. 82-10, which served as a notice in the San Francisco metropolitan area that the Board was recruiting for attorney positions, is attached. The announcement remained open until all attorney positions in the San Francisco Regional Office were filled. No other announcements have been issued in the San Francisco area within the last two years.

5. A copy of the position description with the OF-8 cover form.

Attached is a copy of the position description, with OF-8 Cover Sheet, for Ms. Thomas' initial position with the Merit Systems Protection Board.

6. A copy of Ms. Thomas' application, her SF-171, and all other supporting documentation and records.

Ms. Gretchen Thomas' SF-171, Personal Qualifications Statement, is attached with all other supporting records including her resume.

7. A copy of all other applications for the position, the SF-171's of these applicants, and any supporting documentation and records.

All applications received under Vacancy Announcement No. 82-10 are attached with other documents provided by the candidates. Applicant lists are also attached.

8. A complete description of the selection process involved and a copy of the MSPB regulations governing selections under FPM Chapter 335.

Attorney positions are in the excepted service, Schedule A, 5 CFR §213, rather than the competitive service. Only positions in the competitive service are covered by the merit promotion rules of Federal Personnel Manual Chapter 335. The Board procedures for hiring attorneys and a description of the selection process are contained in the policy statements attached: 1) Board order 1421.1 dated February 2, 1981 and 2) memorandum dated March 9, 1982 from the Director of Personnel, Frederick L. Foley to Regional Directors on the recruitment of attorney examiners.

Attachment

9. A copy of the crediting plan for the position and any documentation that supports the validity of this crediting plan including job analysis and any pilot tests with the crediting plan.

Crediting plans pertain exclusively to competitive service positions. For excepted service attorney positions, such plans are prohibited in accordance with the Department of Justice decision attached as referenced in our response to question No. 8. Selection criteria are contained in the vacancy announcement.

Nonetheless, the Board's hiring policy at that time was based on the desire to ensure a representational workforce reflecting a variety of experience levels and backgrounds. It was incumbent on the Board to ensure that routine cases would be processed by entry-level attorneys and that the complex removal cases be processed by more experienced attorneys with hearing officer or personnel type backgrounds.

Attorneys recruited at the entry level (GS-11) were not expected to have the depth of litigation background and subject-matter experience that would be required for higher graded attorneys.

10. Which individual developed the crediting plan.

For the reasons described above, there is no crediting plan as such. The selection criteria (called "ranking factors" in the vacancy announcement) were established by senior Board staff early in 1979, so that now no particular individual can be identified as the author.

11. The individual or individuals who rated Ms. Thomas' application, as well as the individual or individuals who rated each of the other applications.

The administrative officer in the San Francisco Regional Office initially screened the applications to determine whether the requirements of a law degree from an accredited institution and a bar certification were met. The applications were then evaluated and tentative selections made by the Regional Director on the basis of the selection criteria.

Mr. E. A. Simpson, Chief of Personnel Operations at Board Headquarters certified the tentatively selected candidates, including Gretchen Thomas, based on the qualification requirements in MSPB Order 1412.1, "Employment and Advancement of Excepted Service Attorneys" (attached as referenced in No. 8). Gretchen Thomas was certified qualified at the GS-11 attorney-examiner grade.

It should also be noted that Mr. Richard Redenius, the Managing Director who has been delegated operational authority over the agency by the Chairman, reviewed the credentials of Ms. Thomas along with other applicants to ensure that prospective employees had backgrounds consistent with the Board's overall hiring policy.

12. A description of how Ms. Thomas' application was received. Please provide a complete list of all individuals within MSPB who had contact with Ms. Thomas during the application and selection process indicating the type of contact involved.

Sometime in the late spring, 1982, Ms. Gretchen Thomas made a personal visit to Mr. Herbert Ellingwood, Chairman of MSPB. Ms. Thomas sought Mr. Ellingwood's guidance as a friend as to how she should proceed in the development of her legal career. Inasmuch as she worked for him when he was Deputy Counsel to the President as a volunteer intern, he advised that she should consider working in an attorney general's office or a public defender's office in order to develop litigation skills. It was at this time that she gave Mr. Ellingwood a copy of her resume.

Mr. Ellingwood then gave Mr. Redenius the resume without an endorsement of any kind. Mr. Redenius believes he had it with him during his visit to the San Francisco office in late July, 1982, and may well have passed it on to Mr. Lucero for his consideration at that time.

On July 28, 1982, the San Francisco Regional Office received from Ms. Thomas a copy of her SF-171. A copy of the SF-171, and its envelope addressed to Mr. Luis Lucero, are attached as referenced in No. 6.

Mr. Lucero recalls having at least two contacts with Ms. Thomas during the selection process. He interviewed Ms. Thomas for the vacancy during the latter part of July or early August 1982. He believes that the next contact was a telephone call advising Ms. Thomas of her tentative selection subject to Personnel Office approval of her qualifications for a GS-11 attorney-examiner position. In accordance with Board policy the Board's Personnel Office telephoned Ms. Thomas on August 17, 1982, to make the formal job offer and establish September 7, 1982 as her reporting date.

13. A complete description of the distribution of the job announcement including a list of every individual and group sent an announcement and where and when each announcement was posted.

Mr. Lawrence E. Shearer, Acting Regional Director in March and April of 1982, arranged for wide distribution of Vacancy Announcement 82-10 to local bar associations, law schools, minority and women's groups and through the standard distribution system of the Office of Personnel Management, San Francisco Regional office. Although we do not have a list of the law schools contacted, Mr. Lucero has provided an illustrative list which would likely represent the contacts made. Copies of the lists of bar associations and probable minority and women's groups used in the distribution are attached.

The San Francisco Regional Office also maintained a file of applications which were previously received for attorney-examiner positions. Mr. Shearer recalls that some of these applicants may have been contacted but is not certain.

14. A copy of the recruiting plan for the announcement.

Applications for excepted service may be received at any time, from any source, and do not need to be identified with any specific vacancy announcement. Recruiting plans are usually structured to fit a particular vacancy, community, and region on an ad-hoc basis, and are often not recorded. No record can be found of a recruiting plan for these vacancies.

As we indicated earlier, vacancy announcements are used merely to notify possible candidates for excepted service. Such vacancy announcements do not constitute a competitive selection process for positions in the excepted service.

15. The raw scores and final ratings for each applicant and any notes and documents associated with the rating and ranking process.

As discussed in our answers to No. 8 and No. 9 above, the Board is prohibited from assigning raw scores or final ratings to applicants for excepted service positions.

16. The identity of each individual interviewed for the job and the location and date each interview took place. The identity of the MSPB official who conducted each interview. Please provide copies of all interview notes and records.

Mr. Shearer, the Acting Regional Director, remembers interviewing at least Jennifer Gee, Roselyn Rosenfeld and a third person before Mr. Lucero arrived in San Francisco to assume his duties as regional director in late April, 1982. Mr. Lucero recalls recommending to Mr. Shearer that he interview Ms. Gee and Margie Valdez as he knew both of them from a prior professional association. Mr. Shearer does not recall any other interviews. He gave his interview notes to Mr. Lucero. Ms. Thomas had not applied for the attorney-examiner position before Mr. Lucero was appointed as regional director.

Mr. Redenius, in his capacity as Managing Director, also interviewed candidates in the San Francisco Regional Office including Jennifer Gee and Margie Valdez.

It should be noted that the Board was under a hiring freeze during this time because of its severely limited budget. The Board was actively recruiting, however, in anticipation of a supplemental appropriation. Candidates were being selected throughout the spring and summer with the understanding that Mr. Lucero could not hire them until the supplemental was passed. As it turned out, the supplemental was delayed until late July, which had the effect of allowing the Board to add an additional position. The new employees entered on duty in August and September, including Gretchen Thomas.

Mr. Lucero recalls interviewing the following candidates between May and June 1982 for permanent attorney-examiner positions:

LuNell Anderson	Jennifer Gee
Margie Valdez	Roselyn Rosenfeld
June Wooliver	Tom Cosentino
Krisida Jones	Joette Scorotow
Steven Anderson	Rosezella Canty-Letsome
Chester Relyea	Stephen Passek
Jeff Goodfriend	

Mr. Lucero interviewed Ms. Thomas in late July or early August 1982, as indicated by Ms. Thomas' August 7, 1982 follow-up letter. All interviews took place in San Francisco or Seattle. Other than the notes on Ms. Gee, which are attached, no other records or notes of the interviews were found.

17. Copies of all letters and forms that went out to those who applied regarding the selection or non-selection for the position; include copies of all correspondence with Ms. Thomas.

Individual letters were sent by the regional office in this case, and we were able to locate some of these (copies attached). During this period, we were experiencing our first recruiting since delegating to the Regions the authority to recruit and select employees. As a result, there was some variation in the methods and extent of regional handling. Apparently, courtesy replies to some non-selected applicants were never sent.

Attachment

18. A description of the date and format in which you notified the headquarters of MSPB of the selection of Ms. Thomas. Please provide copies of any materials related to this notification.

The San Francisco Regional Office mailed the SF-52 requesting the appointment of Ms. Thomas (attached as referenced in No. 3), to Headquarters together with the SF-171 (attached as referenced in No. 6). These were received in the Personnel Office on August 16, 1982, and only constituted notification to Headquarters of Ms. Thomas' tentative selection.

19. Copies, records or notes of all communication between the regional office and anyone pertaining to the application and hiring of Ms. Thomas including anything from Edwin Meese and Herbert Ellingwood.

There are no records or notes of communications between the San Francisco Regional Office and anyone pertaining to the application and hiring of Ms. Thomas. Neither Mr. Meese nor Mr. Ellingwood were used as references in Ms. Thomas' application. Further, Mr. Ellingwood had no involvement in the selection process aside from providing Mr. Redenius a copy of her resume.

20. A complete explanation of why Ms. Thomas was chosen over all other applicants.

Ms. Thomas was one of four applicants selected for newly established attorney positions in the San Francisco Regional Office. She was chosen consistent with the Board's overall appointment plan to hire candidates with diversified backgrounds and experience levels who could fill various attorney-examiner grades in that office. That assessment was based on the Board's obligation to adjudicate not only the expected ATC appeals but also the relatively routine appeals which would otherwise constitute the bulk of the regional office's case load. It was incumbent on the Board to distribute its resources in a cost-effective manner which required balancing the need to process adverse action appeals by experienced attorney-examiners and routine cases by entry level attorneys.

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HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

LIST OF ATTACHMENTS

- Item #3 Request for Personnel Action, SF-52.
- Item #4 Vacancy Announcement No. 82-10.
- Item #5 Position Description and OF-8 Cover Sheet
- Item #6 Ms. Gretchen Thomas' SF-171, Personal Qualification Statement, with other supporting records, such as her resume.
- Item #7 All applications received for Vacancy Announcement No. 82-10, with supporting documents, plus a list of applications received.
- Item #8 Board procedures for hiring attorneys and a description of the selection process. (Board Order 1412.1, and memorandum from the Director of Personnel on recruitment of attorney-examiners.)
- Item #13 National list of minority and women's group contacts, a local list of legal and other interested organizations, and a list of local law schools.
- Item #16 Interview notes on Ms. Gee.
- Item #17 Letters from Luis Lucero.



U.S. MERIT SYSTEMS PROTECTION BOARD
Washington, D.C. 20419

April 3, 1984

Honorable Patricia Schroeder
Chairwoman
Subcommittee on Civil Service
Committee on Post Office and
Civil Service
U.S. House of Representatives
Washington, D.C. 20515

Dear Madam Chairwoman:

As an addendum to my March 30, 1984, response to your questions regarding the Merit Systems Protection Board's hiring of Ms. Gretchen Thomas as a presiding official in our San Francisco Regional Office, I would like to provide the following information.

As stated, Ms. Thomas was hired to fill one of four (4) permanent attorney-examiner positions open in the San Francisco Regional Office during the summer of 1982. Each of these appointments took place on September 5, 1982. In addition, however, in an effort to meet the inordinately high workload in that region, the Board appointed another five (5) attorney-examiners on a temporary basis, one of which was hired at the same grade as Mrs. Thomas. The first of these was effective on September 5, 1982, with subsequent appointments during the next fiscal year on October 24, October 31, December 26 and, finally, January 2 of 1983.

Together, these appointments made it possible to process the staggering number of air traffic controller appeals which the San Francisco Regional Office received.

I hope this information is helpful to you and if you need any further information, please do not hesitate to call upon me.

Sincerely,

Paul E. Trayers
Legislative Counsel

It is in this context that Mr. Redenius became involved in the hiring practices of several regional offices including the San Francisco Regional office. Because of his concerns that these recruiting goals were not being adequately addressed in those offices, he reviewed some of the applications personally and became involved in interviewing several candidates. His involvement in San Francisco led him to dissuade Mr. Lucero from hiring some of the applicants and to reconsider others. He also concluded based on previous backlogged problems in San Francisco that an additional attorney-examiner position should be allocated.

Regarding the hiring of Ms. Thomas, Ms. Bradley recollects receiving a telephone call from Mr. Lucero in late summer 1982. Mr. Lucero asked whether he had to hire Ms. Thomas. Ms. Bradley advised Mr. Lucero either in the same conversation or a later one that he was obliged to hire Ms. Thomas. Ms. Bradley was under the impression from Mr. Richard Redenius, Managing Director, that Ms. Thomas was to be hired. She does not recollect the statements which resulted in this impression. Neither Ms. Bradley nor Mr. Redenius had discussions with Mr. Ellingwood on this matter.

A question has since been raised regarding the circumstances surrounding the November, 1983 promotion of Ms. Thomas to a GS-12 level. The decision to promote her was exclusively Mr. Lucero's without any guidance from any Board official.

I hope you find this information complete and helpful. If there is any way I may be of further assistance, please contact me.

Sincerely,

Paul E. Trayers

Paul E. Trayers
Legislative Counsel

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San Francisco Regional Office

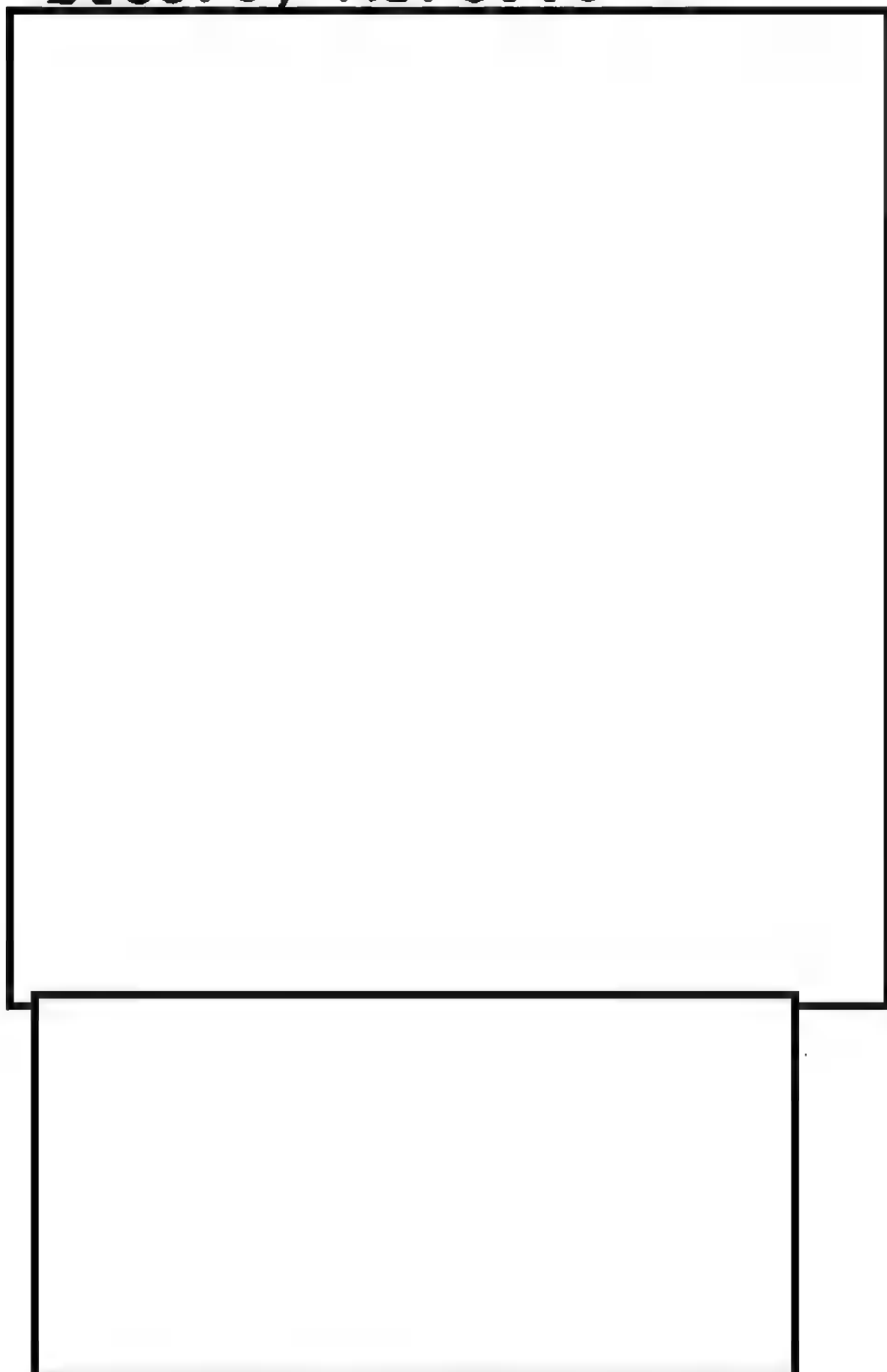
Merit Systems Protection Board

b6

b7C

Third Party

Lucero, Aurelio L.



ES-01

GS-14

GS-14

GS-13

GS-14

GS-14

GS-14

GS-14

GS-14

GS-14

GS-14

GS-14

GS-14

GS-13

GS-12

GS-06

GS-05

GS-05

GS-05

GS-05

YW-00

Regional Director

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Attorney Examiner

Secretary

(Stenography)

Legal Clerk (Typing)

Legal Clerk (Typing)

Legal Clerk (Typing)

Legal Clerk (Typing)

Student Aide

Total Employees - 21

Note: [REDACTED] Administrative Assistant for Chicago, has been detailed to the San Francisco Regional Office for a short period of time.

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 10-09-2007 BY AUC 60324/BAW/STP/cld

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES¹

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (Include any former names used.)

Answer. Herbert Eugene Ellingwood.

Question 2. Address: List current residence address and mailing address.

Answer. 6607 Briar Hill Court, McLean, Virginia 22101.

Question 3. Date and Place of Birth.

Answer. March 5, 1931, Ordway, Colorado.

Question 4. Marital Status: (Include maiden name of wife or husband's name.)

Answer. Audrey Kesler Ellingwood.

Question 5. Names and ages of children.

Answer. Edwin Bruce Ellingwood—age 18; Thomas Barry Ellingwood—age 15.

Question 6. Education: List institution(s), dates attended, degree received and date degree granted.

Answer. Aromas Grammar School—1937–1945; Salinas Union High School—1945–1949; Yale University—1949–1953—B.A. degree (major: Political Science and Economics); Stanford University Law School—1957–1960—J.L.B.

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer. Deputy District Attorney—Alameda County, California—1960–1966; also Legislative Advocate for the Law and Legislative Committees, California District Attorneys' and California Peace Officers' Associations; Legislative Representative, State Bar of California—1966–1969 (Sacramento, California); Legal Affairs Secretary to Governor Ronald Reagan—Sacramento, California—February 1, 1969 to December 31, 1974; Special Assistant Attorney General, State of California—Sacramento, California—January 1, 1975 to July 1, 1979; Private Law Practice—Firm of Caldwell and Toms—Sacramento, California—July 1979 to March 1981; Deputy Counsel to the President of the United States, The White House, Washington, D.C.—March 1981 to December 1981.

Question 8. Government Experience: List any experience in, or association with Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer. All my employment has been with Federal, state or local government except for the State Bar activity (1966–1969) and the private law practice (1979–1981). (See answer No. 10 for other activity.)

¹ Financial information retained in committee files.**Question 9. Business Relationships:** List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational, or other institution.

Answer. 1979–1981—Partner in firm of Caldwell and Toms, 611 W. 6th Street, Los Angeles, California 90017.

Corporations

Vence Associates, Inc., 611 W. 6th Street, Los Angeles, California 90017—stockholder—1980–1981.

S. K. Sung, Inc., 3595 Almaden Road, San Jose, California 95118—Officer (stock not issued prior to resignation)—1980–1981.

Strawberries & Stuff, 1450 W. Colonial Parkway, Roseville, California 95678—officer, stockholder—1980–present.

Partnerships

Nellie Gail No. 1 Associates, 24882 Buckboard, Laguna Hills, California 92653—1980–present.

Giebel Petroleum & Investments, 1 Mariensfeld Place, Midland, Texas 99701—1979–present.

Other

Shelbourne Estates Homeowners Association, 7575 Auburn—Folsom Road, Loomis, California 95650—Officer—1980–1981.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic charitable and other organizations.

Answer:

American Bar Association—Criminal Law Section, various committees.

Christian Legal Society—National President, 1976–1977; National Board of Directors, 1974–1975; member, 1967–present.

State Bar of California—Member, Committee on Criminal Law and Procedure, 1970–1973.

Alameda County Bar Association, 1960–1981.

Sacramento County Bar Association.

Placer County Bar Association.

California Organized Crime Control Commission, 1977–1978 (member).

Peace Officers Standards and Training Advisory Committee, member, 1980–1981.

California Peace Officers' Association—Federal Law Enforcement Assistance Act Committee; Standards and Ethics Committee.

California District Attorneys' Association—Federal Law Enforcement Assistance Act Committee.

California Sheriffs' Association, 1960–1981.

University of California, School of Criminology—Federal Law Enforcement Assistance Act Committee.

Delegate, White House Conference on Children, 1970.

Delegate, National Conference on the Judiciary, 1971.

Delegate to the National Conference on Corrections, 1971.

Delegate, National Conference on Criminal Justice, 1973.

Member, California Council on Criminal Justice, 1969–1975; Member, Riots and Disorders Task Force, 1969–1970; Chairman, Judicial Process Task Force, 1970–1974; Member, Executive Committee, 1970–1975; Chairman, Planning Allocation Committee, 1971–1974.

Member, California State Communications Advisory Board, 1970–1974.

California Commission on Peace Officer Standards and Training, Attorney General's Representative, 1975–1979.

Project Safer California, Member—Judicial Process Personnel and Institution, 1974.

Member, Advisory Board to the Joint Legislative Committee for Revision of the Penal Code (California).

California State Bar Conference on Trial and Appellate Court Reform, Participant.

Member of and Speaker at California Governor's Traffic Safety Conference, 1965.

Member of Citizens' Advisory Committee to the Joint Legislative Committee for Revision of the Penal Code.

Member of the Governmental Affairs Council, 1980.

California Scholarship Federation; California Peace Officers' Association; California State Sheriffs' Association; California District Attorneys' Association; Peace Officers Research Association of California; Oakland California Police Department; Alameda County, California; Port of Oakland; California Junior Chamber of Commerce; Laws At Work; Los Angeles Board of Supervisors; ...

b. I have over 20 years of legal experience, almost all of which has been in government. In private practice, I did some personnel law.

Answer, Yes.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of:

¹ The letter referred to may be found in the committee files.

PERFORMANCE CERTIFICATIONS

GENERAL INSTRUCTIONS

Each appraisal must conclude with the assignment of one of five summary ratings, as defined below. In determining the appropriate summary rating to assign, consider all the element grades assigned based on observed performance during the appraisal period; do not consider any "No Grade Assigned" designations.

I certify that this employee's performance from 9/5/82 to 9/4/83 is

- ☐ **EXCEEDS** Exceeds the established performance standards for all performance elements.
- ☐ **HIGHLY SUCCESSFUL** Exceeds the established performance standards for all critical performance elements and exceeds most other performance elements.
- ☒ **FULLY SUCCESSFUL** Fully meets the established performance standards for all performance elements, but does not meet the criteria for a "Highly Successful" or "Meritorious" summary rating.
- ☐ **MINIMALLY SATISFACTORY** Fully meets the established performance standards for all critical performance elements, but fails to meet the standard for one or more other performance elements.
- ☐ **UNSATISFACTORY** Fails to meet the established performance standard for one or more critical performance elements.

ACCEPTABLE LEVEL OF CONFIDENCE

(An acceptable level of confidence determination is required only when a within-grade salary increase is currently due for a non-Merit Pay System employee and must be supported by the employee's most recent performance appraisal.)

In accordance with the provisions of 5 U.S.C. 5335(a) and (c) and MSPB policy, I have determined and hereby certify that this employee

- ☒ **IS WORKING AT AN ACCEPTABLE LEVEL OF CONFIDENCE** (based on "Fully Successful" or better)
- ☐ **IS NOT WORKING AT AN ACCEPTABLE LEVEL OF CONFIDENCE** (based on "Minimally Satisfactory" or "Unsatisfactory")

SUPERVISOR'S CERTIFICATION

DATE	TITLE OF SUPERVISOR	SIGNATURE OF SUPERVISOR I have discussed these ratings with the employee
9/2/83	Regional Director	<i>A. Luis Suarez Jr.</i>

EMPLOYEE'S CERTIFICATION

- ☒ My supervisor has discussed my performance evaluation with me. I understand that I will receive a copy of this form from my supervisor after the reviewing official completes his/her review.
- ☒ I have no comments.
- ☐ My comments are attached.

DATE	SIGNATURE OF EMPLOYEE
9.15.83	<i>Quichen W. Thomas</i>

REVIEWING OFFICIAL CERTIFICATION

- ☒ I concur with the supervisor's evaluation of this employee and have not made any changes.
- ☐ I have made appropriate changes on this form based on my independent review.
- ☐ I have made appropriate changes on this form based on comments furnished by the employee.

DATE	TITLE OF REVIEWING OFFICIAL	SIGNATURE OF REVIEWING OFFICIAL
9/20/83	AMDRU	<i>Jacqueline R. Bradley</i>

NOTE: The Reviewing Official returns the original to the first level supervisor who sends it to the Personnel Management Division after making a personal copy and a copy for the employee.

client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. None.

Question 4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. I have worked on legislation during my entire career until I entered Federal service. I represented the California District Attorneys' Association, the California Peace Officers' Association, the California State Sheriffs' Association, the State Bar of California, Governor Ronald Reagan and California Attorney General Evelle Younger. In private practice I never testified, but did advise clients on their testimony before the California Legislature, but nothing before the Congress.

My former law firm had clients with issues before Federal regulatory agencies. I never made an appearance on any of these cases, but did a lot of work on Pat Boone's Acne-Statins case which was in the Federal Trade Commission. We retained Santarelli and Gimer, 2033 M Street, N.W., Suite 700, Washington, D.C. 20036, for that purpose. I have had no contact with that Commission since entering Federal service.

While Deputy Counsel to the President, I did staff work on various legislative proposals, mostly involving criminal law. This did not involve any appearance before a legislative committee.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. I will withdraw from any conflict of interest.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes.

E. LEGAL MATTERS

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested, or charged or held by any federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. None, except as counsel.

Question 4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. None.

AFFIDAVIT

I, Herbert Eugene Ellingwood, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

Date: March 18, 1982.

HERBERT E. ELLINGWOOD.

Subscribed and Sworn to before me this 18th day of March, 1982.

ROBERT S. TAYLOR,

Notary Public, District of Columbia.

My Commission Expires April 14, 1986.

THE WHITE HOUSE
WASHINGTON

December 7, 1981


Dear Professor Wortham:

Pursuant to a plan previously submitted to you, Mrs. Gretchen Thomas has been working in this office under my supervision.

She has completed in excess of 120 hours and has done so in a satisfactory manner.

If you have any questions regarding her performance or the subject matter of her work-study, I would be happy to supply you with that information.

Sincerely,


Herbert E. Ellingwood
Deputy Counsel to the President

Leah Wortham
Assistant Professor
Catholic University
School of Law
Washington, D.C. 20064

THE
CATHOLIC UNIVERSITY
OF AMERICA
WASHINGTON D.C. 20064

OFFICE OF THE DEAN
THE COLUMBUS SCHOOL OF LAW
FOUNDED 1895
202 635-5144

September 1, 1981

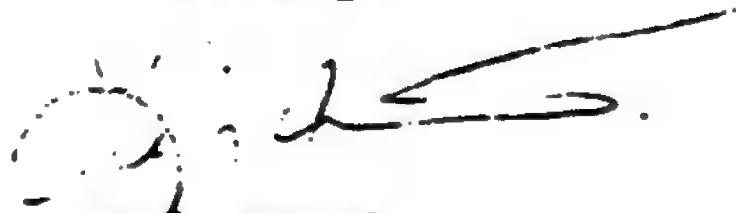
Herbert E. Ellingwood, Esq.
Office of the Counsel
White House
Washington, DC 20523

Dear Mr. Ellingwood:

Thank you for agreeing to take Gretchen Thomas on as an intern. She will receive two semester hours credit for her experience. We will need another letter from you at the end of the term stating that Ms. Thomas has worked 120 hours without compensation and evaluating her performance.

I appreciate your participation in an important part of our curriculum.

Sincerely,



Leah Wortham
Assistant Professor

LW/ec

THE WHITE HOUSE

WASHINGTON

August 28, 1981

Mr. Michael F. Noone, Jr.
Associate Dean
The Columbus School of Law
The Catholic University of America
Washington, D.C. 20064

RE: Legal Internship

Dear Dean Noone:

This is to verify that Gretchen Thomas will be a legal intern for the Office of the Counsel at the White House under my supervision. She will be performing tasks of a legal nature, without compensation, for approximately eight to ten hours per week for this next semester.

If you have any questions about this, please feel free to phone me at 456-2393.

Sincerely,

Herbert E. Ellingwood
Deputy Counsel to the President

bcc: Fred Fielding
Gretchen Thomas

HEE:jsk

of the executive board. This grade will be based on the two articles written by each member.

Law Review II

2 hrs., 2 sems.
(for current staff and editorial board)

Enrollment in the course is optional. A grade of P or F will be given by the faculty moderator upon the recommendation of the executive board, based upon the comment written by each member. Grades for each associate editor will be recommended by the executive board and for each executive editor by the faculty moderator, based upon the editor's adequate fulfillment of his or her responsibilities throughout the semester.

~~Legal Accounting~~

Mr. Adams
2 hrs., 1 sem.

A survey of the elementary techniques and basic theoretical concepts of accounting. Emphasis is on those accounting principles and procedures that are relevant to the practice of law, and attention is given to the legal contexts in which lawyers are likely to confront accounting problems. The course is designed for students who are unfamiliar with accounting, and prior study or training in accounting, business, or finance is not a prerequisite.

Legal Internship

2 hrs., 1 sem.

Students may gain course credit for outside legal work with agencies, law firms, judges, or public-interest groups. The students must devote eight to ten hours per week without compensation, performing tasks of a legal nature under the supervision of an attorney. Limited to two credit hours per semester, and four credit hours per project.

Legislation

Mr. Marcin
3 hrs., 1 sem.

Through lecture and discussion, the instructor and the students examine: legislation as the chief instrument of change and innovation in the law; the pattern from which legislation emerged historically; Anglo-American and Continental theories of legislation; the form and arrangement of statutes; some mechanics of legislative drafting; the various means of

making legislation effective; and the various methods of legislative interpretation.

Local Government Law

Mr. Kaplin
2 hrs., 1 sem.

This course will examine the organization, operation, and source and extent of authority of the various types of local government units, particularly in urban areas. Consideration will be given to traditional topics, such as home rule, zoning, and boundary changes; but the emphasis will be upon more contemporary problems, such as regional planning, decentralization, local government financing, urban renewal, pollution control, and reapportionment. Special attention will be accorded the role of federal grant-in-aid programs in the solution of contemporary urban problems and to the Federal-state-local relationships which result from federal participation in urban problem solving.

Maritime Law

Mr. Malia
2 hrs., 1 sem.

This course covers the leading principles of admiralty jurisdiction and the maritime law of the United States, including pleading and practice in admiralty cases, the maritime lien, the affreightment contract, charter parties, salvage, general and particular average, maritime torts and limitation of liability.

Mass Communications Law

Mr. Zuckman
2 hrs., 1 sem.

A research course which will consider the general issue of protection afforded by the First Amendment to the media and the specific media issues of libel, invasion of privacy, obscenity, censorship, "fair use" in copyright law, free press versus fair trial, judicial secrecy and access of the media to new sources.

Moot Court Nationals Team

2 hrs., 1 sem.

To be eligible to register, a student must be certified by the Moot Court Board and its faculty moderator. A grade of P or F will be given by the moderator upon recommendation of the Board. No more than four credits may be earned.

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peals officer of Merit Systems Protection Board's Washington Field Office and denial of reappointment to that post, that of poor performance, was not the real reason for Board's treatment of him and therefore plaintiff established that he was a victim of discrimination in violation of Title VII.

Reversed and remanded with instructions.

1. Civil Rights \Rightarrow 9.10, 44(1)

Title VII prohibits discrimination against white males upon the same standards that it prohibits discrimination against members of a racial minority; in other words, plaintiff's ultimate burden of persuasion remains the same regardless of race. Civil Rights Act of 1964, §§ 701-718, 42 U.S.C.A. §§ 2000e to 2000e-17.

2. Civil Rights \Rightarrow 44(1)

In an employment discrimination suit in which employee has established prima facie case of discrimination, employer cannot meet its burden of articulating a legitimate reason for its action merely through an answer to the complaint or by argument of counsel but must clearly set forth, through introduction of admissible evidence, the reasons for employee's rejection and the explanation provided must be legally sufficient to justify a judgment for employer. Civil Rights Act of 1964, §§ 701-718, 42 U.S.C.A. §§ 2000e to 2000e-17.

3. Civil Rights \Rightarrow 44(1)

Federal employer's articulated reason for removal of plaintiff, a white male who had established prima facie case of racial discrimination, from his position as chief appeals officer of Merit Systems Protection Board's Washington Field Office and denial of reappointment to that post, that of poor performance, was not the real reason for Board's treatment of him and therefore plaintiff established that he was a victim of discrimination in violation of Title VII. Civil Rights Act of 1964, §§ 701-718, 42 U.S.C.A. §§ 2000e to 2000e-17.

Thomas J. LANPHEAR, Appellant,

v.

Ruth T. PROKOP, Chairperson, Merit
Systems Protection Board, et al.

No. 82-1388.

United States Court of Appeals,
District of Columbia Circuit.

Argued 12 Jan. 1983.

Decided 1 April 1983.

Plaintiff, a white male, brought suit complaining of racial discrimination in federal employment. The United States District Court for the District of Columbia, John Garrett Penn, J., dismissed the suit, and plaintiff appealed. The Court of Appeals, Wilkey, Circuit Judge, held that federal employer's articulated reason for removal of plaintiff, a white male who had established prima facie case of racial discrimination, from his position as chief ap-

Appeal from the United States District Court for the District of Columbia (D.C. Civil Action No. 81-0927).

Joseph B. Scott, with whom Irving Kator, Washington, D.C., was on brief, for appellant.

John W. Polk, Asst. U.S. Atty., with whom Stanley S. Harris, U.S. Atty., Royce C. Lamberth and R. Craig Lawrence, Asst. U.S. Attys., Evangeline W. Swift, Gen. Counsel, and Sara B. Reardon, Atty., Merit Systems Protection Bd., Washington, D.C., were on brief, for appellees.

Before ROBINSON, Chief Judge, WILKEY and GINSBURG, Circuit Judges.

Opinion for the Court filed by Circuit Judge WILKEY.

WILKEY, Circuit Judge:

Appellant Thomas Lanphear, a white male, complains of racial discrimination in federal employment in violation of Title VII of the Civil Rights Act of 1964.¹ Specifically, he claims that on account of his race he was removed from his position as Chief Appeals Officer of the Merit Systems Protection Board's Washington Field Office and thereafter denied reappointment to that post on two occasions.² The district court dismissed appellant's suit following a bench trial finding that there was a legitimate, nondiscriminatory reason for these personnel actions. We now reverse and remand with instructions to enter judgment for the appellant and to award him appropriate relief.

I. BACKGROUND

Appellant was employed for over eight years by the now defunct Civil Service

1. As amended, 42 U.S.C. §§ 2000e-2000e-17 (1976).

2. At trial appellant also claimed that his nonselection was in retaliation for recommending that a black employee in his office be promoted. That claim was rejected by the district court and has been dropped by appellant.

3. Evaluation of Employee Performance for Thomas Lanphear (Feb. 1979); Supervisory

Commission (CSC). He performed a variety of legal and administrative tasks before being competitively appointed on 1 May 1978 as Chief Appeals Officer (CAO) of the Washington Field Office, a GS-15 position. He inherited a difficult situation there and apparently did much to improve it. He substantially reduced a large backlog of cases, increased the administrative efficiency of the office, and bolstered a sagging morale. He received solid, even enthusiastic evaluations from his immediate supervisors.³

In January 1979 the adjudicatory functions of CSC were taken over by the newly created Merit Systems Protection Board (MSPB) while its management functions were largely shifted to the Office of Personnel Management. CSC employees were transferred to the new agency in a "mass change" document according to which their title, grade, and salary remained the same.⁴ Thus, appellant continued to serve as CAO in the Washington Field Office. In August of that year, however, the MSPB published a vacancy announcement for CAO positions within the agency.⁵ The announcement stated that appointments would be made "as vacancies occur," but the MSPB treated the announcement as including all CAO positions, of which there were eleven.⁶ Appellant was, thus, reduced to acting CAO and had to hope for reappointment under the new regime.

In February 1980, before the new CAOs were selected, Ruth Prokop, chairwoman of the MSPB, issued an affirmative action mandate directing her subordinates to achieve a representative workforce. "I am committed to this result," she stressed.

Appraisal for Thomas Lanphear (Oct. 1978); Applicant Appraisal Form for Thomas Lanphear (May 1980), reprinted in Joint Appendix (JA) at 47-53.

4. Reprinted in JA at 54.

5. Vacancy Announcement 79-34 (20 Aug. 1979), reprinted in JA at 41.

Thus, your performance in this area will be measured by the degree that you successfully achieve the Board's goals in the organizational unit for which you are responsible.⁷

Also during the pendency of the CAO selection procedures, the MSPB was developing an official affirmative action plan which called for hiring a black male CAO in the 3rd quarter of fiscal year 1980.⁸

Appellant Lanphear was advised by his supervisor, Paul Mahoney, that he would automatically be considered for the CAO position in the Washington Field Office and need not submit an application. In fact, however, he appears not to have received any consideration, whether serious or perfunctory. No papers concerning him, not even supervisory appraisals, were given to the reviewing panel that screened candidates. He was not interviewed for the job by Mr. Redenius, the man ultimately responsible for the selection. He never even received notice of his non-selection, learning of it only indirectly through rumors; through broad hints by Redenius, who suggested he take another job but allegedly refused to confirm that he would not be reappointed as CAO; and finally through a March 1980 newsletter announcing that Samuel Flanagan, a black attorney from the Department of Justice, had been selected. One month later appellant was reassigned to the Office of Appeals at MSPB headquarters. His grade and salary remained the same.

Mr. Flanagan was chosen in an abbreviated process. Despite their alleged impor-

6. Order from Ruth Prokop to All Supervisors and Managers (6 Feb. 1980), reprinted in JA at 179.

7. Affirmative Action Plan for Fiscal Year 1980 at 37, reprinted in JA at 172, 212. See also Testimony of Mr. Doherty, reprinted in Trial Transcript (TR) at 947 (even before selection was made "there was a consensus on the staff that we would probably have a black Chief Appeals Officer").

8. Stipulations of Fact (No. 81-0927) at ¶ 14, reprinted in JA at 32; Supplemental Stipulations at ¶ 1, reprinted in JA at 39. The above remarks are not intended to cast aspersions on Flanagan's qualifications, which were indisput-

lance to selection, Redenius did not review Flanagan's supervisory appraisals or any of his work product. Nor did he speak with any of the members of the screening panel about Flanagan's qualifications. Redenius chose him only on the basis of his standard form application, his resume and a personal interview.⁹

Later that year the CAO position was upgraded from GS-15 to the Senior Executive Service. A new vacancy announcement was published¹⁰ and both Flanagan and appellant applied for the position. Both candidates were considered by the rating panel to be highly qualified. Redenius was again the selecting official and he again chose Flanagan.

After his first failure to be reappointed as CAO of the Washington Field Office, appellant filed a complaint with the MSPB's Equal Employment Opportunity (EEO) office alleging that his non-selection was due to his race. An EEO counselor assigned to the case noted a number of reasons given by Redenius for not selecting appellant: management deficiencies leading to personnel complaints; a large backlog, including a number of unassigned cases; and sloppy, erratic production. In sum, appellant "was not up to the standards" of the job.¹¹ Redenius also stated that he had not needed to interview appellant since he was already well aware of appellant's deficiencies.

On 5 February, despite Redenius' claims, the EEO office issued a recommended deci-

ably good. But a departure from the normal consideration given a candidate in evidence that, at least in Redenius' mind, the candidate's qualifications for the job were not the only factors to be considered. This evidence is highly relevant to the question whether the reason given for not hiring appellant, i.e., his comparative lack of qualifications, was merely a pretext.

9. Vacancy Announcement 80-SES-3, reprinted in JA at 344.

10. EEO Counselor's Report re Thomas Lanphear (hereinafter cited as EEO Report) at 4, reprinted in JA at 65, 68.

tion finding reasonable cause to believe plaintiff was discriminated against because of his race.¹¹ The MSPB refused to accept this recommendation. Appellant filed a second complaint after he was again passed over for the CAO position. When this complaint was also rejected by the MSPB, appellant brought the present action.

The district court, after a week-long trial, dismissed appellant's suit. Although recognizing that appellant had established a prima facie case of race discrimination, the court nonetheless concluded that the MSPB had a legitimate reason for eliminating appellant from consideration: "they had concluded prior to the 1980 selection of CAOs that they wanted new faces and they wanted to remove most if not all of the incumbents."¹²

II. ANALYSIS

A. Legal Framework of Title VII Discrimination Cases

In *McDonnell Douglas Corp. v. Green*,¹³ the Supreme Court set forth the basic allocation of burdens and order of presentation of proof in a Title VII discrimination case. First, plaintiff must prove a prima facie case of discrimination by a preponderance of the evidence. Second, if plaintiff succeeds in proving this prima facie case, the burden then shifts to the defendant "to articulate some legitimate, nondiscriminatory reason for the employee's rejection."¹⁴ Third, if defendant carries this burden, plaintiff is then granted an opportunity to prove by a preponderance of the evidence that the facially legitimate reason offered by the defendant was not its true reason, but rather a pretext for discrimination.¹⁵

11. See Complaint at 5, reprinted in JA at 10; Answer at 7, reprinted in JA at 18.

12. Memorandum Opinion, No. 81-0927, at 8 (D.D.C. 24 March 1982), reprinted in JA at 20, 27.

13. 411 U.S. 792, 802-805, 93 S.Ct. 1817, 1824-1825, 36 L.Ed.2d 658 (1973).

14. *Id.* at 803, 93 S.Ct. at 1824.

15. *Id.* at 804, 93 S.Ct. at 1825.

The importance of these shifting burdens was reemphasized by the Court in the recent case of *Texas Dept. of Community Affairs v. Burdine*.¹⁶ Plaintiff always bears the ultimate burden of persuading the trier of fact that the defendant intentionally discriminated against him. "The *McDonnell Douglas* division of intermediate evidentiary burdens serves to bring the litigants and the court expeditiously and fairly to this ultimate question."¹⁷

In *McDonnell Douglas* the Court also outlined a model prima facie case of discrimination. Plaintiff must show:

- (i) that he belongs to a racial minority;
- (ii) that he applied and was qualified for a job for which the employer was seeking applicants;
- (iii) that, despite his qualifications, he was rejected; and
- (iv) that, after his rejection, the position remained open and the employer continued to seek applications from persons of complainant's qualifications.¹⁸

The Court added, however, that this standard is not inflexible since "[t]he facts necessarily will vary in Title VII cases, and the specification above of the prima facie proof required from respondent is not necessarily applicable in every respect in differing factual situations."¹⁹ The *Burdine* Court, acting on this suggestion, explained the prima facie case in a much more flexible manner: plaintiff must merely prove that he applied for an available position for which he was qualified, but "was rejected under circumstances which give rise to an inference of unlawful discrimination."²⁰

[1] Title VII prohibits discrimination against white males upon the same standards that it prohibits discrimination

16. 430 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981).

17. *Id.* at 253, 101 S.Ct. at 1093.

18. 411 U.S. at 802, 93 S.Ct. at 1824.

19. *Id.* at 802 n. 13, 93 S.Ct. at 1824 n. 13.

20. 430 U.S. at 253, 101 S.Ct. at 1093.

against members of a racial minority.²¹ In other words, a plaintiff's ultimate burden of persuasion remains the same regardless of race: he must prove that the defendant intentionally discriminated against him. Yet this court has recognized that some adjustment is necessary in the prima facie case required of a white male.

The original *McDonnell Douglas* standard required the plaintiff to show 'that he belongs to a racial minority.' Membership in a socially disfavored group was the assumption on which the entire *McDonnell Douglas* analysis was predicated, for only in that context can it be stated as a general rule that the 'light of common experience' would lead a factfinder to infer discriminatory motive from the unexplained hiring of an outsider rather than a group member. Whites are also a protected group under Title VII, but it defies common sense to suggest that the promotion of a black employee justifies an inference of prejudice against white co-workers in our present society.²²

Thus, to establish a prima facie case appellant needs to show more than that he was qualified for the CAO position but was rejected in favor of a black male from outside MSPB. He must also show that "background circumstances support the suspicion that the defendant is that unusual employer who discriminates against the majority."²³ In other words, to repeat the *Burdine* formulation, he must show that he

21. *McDonald v. Sante Fe Trail Transp. Co.*, 427 U.S. 273, 280, 98 S.Ct. 2574, 2578, 49 L.Ed.2d 493 (1976).

22. *Parker v. Baltimore & O.R. Co.*, 652 F.2d 1012, 1017 (D.C.Cir.1981).

23. *Id.* See also *Daye v. Harris*, 655 F.2d 258, 263 (D.C.Cir.1981).

24. 430 U.S. at 253, 101 S.Ct. at 1093.

25. Mem.Op. at 2, reprinted in JA at 21.

26. *Id.*

27. The Supreme Court has held that Title VII does not prohibit "race-conscious affirmative action plans." *United Steelworkers of America v. Weber*, 443 U.S. 193, 197, 99 S.Ct. 2721,

"was rejected under circumstances which [despite his majority status] give rise to an inference of unlawful discrimination."²⁴

B. The District Court's Opinion

The district court found that appellant "easily established his prima facie case."²⁵ We agree. He was amply qualified for the CAO position. Indeed, he had been filling it for some time with good results. Furthermore, he presented evidence that once the MSPB demoted him to acting CAO "he was given little or no consideration for the position,"²⁶ and was passed over in favor of a black male from outside the agency whose qualifications were not fully reviewed by the selecting official. Finally, at the time of selection the MSPB was under pressure from its head to increase the percentage of minority employees and was in the process of adopting an affirmative action plan.²⁷ These elements combine to make out a prima facie case of race discrimination against a white employee.

[2] Once appellant established his prima facie case, the burden shifted to the MSPB to articulate a legitimate, nondiscriminatory reason for its treatment of appellant. The reason given by the MSPB was that appellant was not up to the standards of the job: he had performed poorly as CAO and was accountable for personnel and production problems in the Washington Field Office. This is the reason Redenius gave to the EEO investigator.²⁸ It is the reason

2724, 61 L.Ed.2d 480 (1979) (approving direct quota allowing junior black employees to advance over white employees with seniority). But the Court declined to "define in detail the line of demarcation between permissible and impermissible affirmative action plans." *Id.* at 208, 99 S.Ct. at 2729. Nor need we attempt such a task today. The MSPB has not purported at any point in the proceedings to justify its actions on the basis of an affirmative action plan. Under both *McDonnell Douglas* and *Burdine* an employer is held to the reason it articulates for rejecting an employee. If that reason proves pretextual, a court is not to substitute an alternative justification of its own accord. See pp. 1316-1317, *infra*.

28. See p. 1313, *supra*.

given in the MSPB's Answer to the original Complaint.²⁹ It is the focus of the MSPB's defense as presented to the trial court below.³⁰ And it is reiterated in the argument made to this court.³¹

There can be no doubt that "poor performance" was the response given by the MSPB when it was required, under the shifting burdens of *McDonnell Douglas*, "to articulate some legitimate, nondiscriminatory reason for the employee's rejection."³² Appellant devoted his energies at trial to rebutting this defense in an effort to show that it was merely a pretext for discrimination. The ultimate issues in the case were thereby brought clearly into focus. Yet the district court inexplicably granted judgment for the MSPB on a ground totally different from that upon which the MSPB relied.

The defendants did not single out plaintiff as a means of selecting a black; rather, they had concluded prior to the 1980 selection of CAOs that they wanted new faces and they wanted to remove most if not all of the incumbents.³³

The district court found that the MSPB simply wanted "to inject new blood into the agency" by means of a "change in personnel" among holdover CAOs.³⁴

The entire basis for this "clean sweep" justification presented by the district court appears to stem from a stray suggestion made to Redenius by another MSPB official who did not even take part in the selection process.³⁵ He suggested that because of public image problems it might be best "to replace all the staff members who were the

29. See Answer at ¶¶ 18 & 20, reprinted in JA at 17.

30. See Testimony of Mr. Redenius, reprinted in TR at 459-460, 505-510.

31. See Brief for Appellees at 12.

32. 411 U.S. at 802, 83 S.Ct. at 1824. A related justification presented by the MSPB is that Flanagan was better qualified than appellant. In other words, appellant is said to have been unqualified for the CAO position both absolutely and relative to his successor. But the argument for the latter point turns largely on evidence presented to establish the former. That is, the MSPB does not emphasize Flanagan's

key figures," including CAOs.³⁶ There is no indication that this suggestion was followed. Indeed, two of the five holdover CAOs were reappointed. More important, Mr. Redenius, the selecting official, never offered it as a reason for not selecting appellant. Nor was it ever put forward as a justification by the MSPB, either before this court or below. In fact, the MSPB has explicitly disavowed it.³⁷

The district court's substitution of a reason of its own devising for that proffered by appellees runs directly counter to the shifting allocation of burdens worked out by the Supreme Court in *McDonnell Douglas* and *Burdine*. The purpose of that allocation is to focus the issues and provide plaintiff with "a full and fair opportunity" to attack the defendant's purported justification. That purpose is defeated if defendant is allowed to present a moving target or, as in this case, conceal the target altogether.

[T]he defendant must clearly set forth, through the introduction of admissible evidence, the reasons for the plaintiff's rejection. The explanation provided must be legally sufficient to justify a judgment for the defendant. If the defendant carries this burden of production, the presumption raised by the prima facie case is rebutted, and the factual inquiry proceeds to a new level of specificity. Placing this burden of production on the defendant thus serves simultaneously to meet the plaintiff's prima facie case by presenting a legitimate reason for the

strong points as much as appellant's deficiencies.

33. Mem.Op. at 8, reprinted in JA at 27.

34. *Id.* at 8-9, reprinted in JA at 27-28.

35. Testimony of Mr. Mahoney, reprinted in TR at 691 ("We were not brought into these consultations to any great degree and we sort of were left out, wondering what was going to happen.").

36. *Id.* at 593. See also *id.* at 640.

37. Brief for Appellees at 24-25.

action and to frame the issue with sufficient clarity so that the plaintiff will have a full and fair opportunity to demonstrate pretext.³⁸

The Supreme Court explicitly added that "[a]n articulation not admitted into evidence will not suffice. Thus, the defendant cannot meet its burden merely through an answer to the complaint or by argument of counsel."³⁹ It should not be necessary to add that the defendant cannot meet its burden by means of a justification articulated for the first time in the district court's opinion.

Accordingly, the judgment of the district court cannot be sustained.

C. The Question at Issue

[3] The focus of this case is now on a single issue: Was appellant's poor performance as CAO the real reason for the MSPB's treatment of him?⁴⁰ If true, appellant's case is defeated and judgment must be for the MSPB. If, however, appellant shows that reason to be specious, then in conjunction with his prima facie case appellant has carried his burden of proving discrimination by a preponderance of the evidence.

38. 450 U.S. at 255-56, 101 S.Ct. at 1094-95.

39. *Id.* at 255 n. 9, 101 S.Ct. at 1094 n. 9 (emphasis added). See also *SEC v. Chenery Corp.*, 318 U.S. 80, 63 S.Ct. 454, 87 L.Ed. 628 (1943) (administrative agency must defend its decision in court on the same basis as it gave for the decision itself).

40. As noted, the MSPB claims not only that appellant was unqualified for the CAO position but also that his successor was qualified. There appears to be little doubt that at the time of the first selection process the latter statement was true. Flanagan's paper record made him a plausible candidate for a CAO post and on the basis of that record he successfully passed the initial screening panel. Furthermore, Redenius testified that Flanagan was impressive and articulate in the personal interview preceding his selection. Testimony of Mr. Redenius, reprinted in TR at 550. But in order to establish pretext appellant need not show that Flanagan was unqualified. He need only show that he himself, contrary to the MSPB's assertions, was fully qualified. As we shall see, he demonstrates this with ease. Appellant's position is then further bolstered by evi-

There is no need to remand to the district court to resolve this issue. It is clear from the record and even from the district court's opinion that appellant did not perform poorly as CAO.⁴¹ In fact, his performance was good, perhaps excellent, and he met all the standards and objectives of the job. Therefore, poor performance could not have been the reason for his nonselection. Since any other finding would be clearly erroneous, a remand on the issue would serve no purpose.⁴²

As noted, Redenius gave three reasons why he considered appellant to be "not up to the standards" of the CAO position.⁴³ All three reasons have been decisively refuted by the evidence in the case. Indeed, the Stipulations of Fact alone, stipulations voluntarily entered into by the MSPB, are sufficient to undermine most of Redenius' claims.

First, Redenius asserted that "Lanphear did not handle people well and alienated his entire workforce."⁴⁴ He cited a number of management problems and Equal Employment Opportunity (EEO) complaints filed against appellant. "Redenius alleged that there were more problems in that unit in 1979 than in the rest of the organization."⁴⁵

dence that, at the time of the first selection, Redenius did not fully review Flanagan's qualifications, see p. 1313, *supra*, and that, at the time of the second selection, Redenius ignored indications that Flanagan himself had performed poorly as CAO, see pp. 1317-1318, & n. 65, *infra*.

41. The district court failed to identify this issue as the crux of the case and therefore failed to make any specific finding on it. But it is clear from remarks scattered throughout the opinion that the district court implicitly found that appellant did not perform poorly as CAO. See, e.g., Mem.Op. at 4, 5, and 9, reprinted in JA at 23, 24, and 28.

42. *Independent Bankers Assoc. v. Helmann*, 613 F.2d 1164, 1167 (D.C.Cir.1979).

43. See note 10, *supra*; Testimony of Mr. Redenius, reprinted in TR at 505-510.

44. EEO Report at 4, reprinted in JA at 68.

45. *Id.* See also Testimony of Mr. Redenius, reprinted in TR at 510.

These allegations are simply not borne out by the Record Evidence. A number of witnesses testified and the trial court found that appellant was a well-regarded and "a popular CAO."⁴⁶ All his performance evaluations rated him as either "excellent" or "very good" in management ability.⁴⁷ A number of witnesses who had worked for both Lanphear and Flanagan "all spoke highly of the plaintiff and described him as being more knowledgeable in the field and a much better administrator than Flanagan."⁴⁸ Furthermore, the parties stipulated that during his 23-month tenure as CAO only two formal EEO complaints were filed by WFO personnel.⁴⁹ In both instances the actions of which his subordinates complained were taken by appellant's superiors contrary to his recommendations.⁵⁰ Indeed, the major incident relied on by the MSPB to illustrate appellant's allegedly poor management is his promotion recommendation for one of these two employees. It is paradoxical to say the least to blame appellant both for his recommendation that the employee be promoted and for the EEO complaint filed by that employee when he was not promoted,⁵¹ especially since that complaint was subsequently settled by granting the employee the promotion retroactively with back pay.⁵² Furthermore, this promotion recommendation was the only one of eleven he made as CAO that was not ap-

46. Mem.Op. at 9, reprinted in JA at 28. See Testimony of Ms. Bogle, reprinted in TR at 385-86; Testimony of Ms. Johnston, TR at 750-751; Testimony of Mr. Richardson, TR at 767; Testimony of Ms. Gibson, TR at 799-800; Testimony of Mr. Hoxey, TR at 805; Testimony of Mr. Clancy, TR at 921; Testimony of Mr. Doherty, TR at 939.

47. Reprinted in JA at 47-53.

48. Mem.Op. at 9, reprinted in JA at 28. See note 46, *supra*.

49. Stipulations at ¶ 30, reprinted in JA at 33.

50. *Id.*

51. The MSPB has alleged that the fact that the employee in question was not ready for promotion was due to appellant's failure to provide sufficient guidance and counseling as to that employee's deficiencies. Brief for Appellees at 11. But that allegation is belied by the testimo-

proved.⁵³ The degree to which the MSPB harps on this single incident merely highlights the weakness of its defense.

Redenius' second reason was "the large backlog that still existed in the Washington Field Office as well as the number of unassigned cases."⁵⁴ But the parties have stipulated that appellant "substantially reduced" this backlog during his tenure as CAO.⁵⁵ There were 706 cases pending at the time of his appointment and only 174 cases pending when he was removed. 2419 final cases were produced in the interim. By contrast, during the nine months following appellant's removal, while Flanagan was CAO, the backlog of cases increased by almost 300 to 471.⁵⁶ Furthermore, unrebutted testimony shows that appellant made case assignments on a prompt basis and at no time had any unassigned cases.⁵⁷

The parties also stipulated that "[e]ach CAO operated under a performance appraisal plan with a critical element providing that he or she 'organizes efforts of staff and office systems to maintain timely production at minimized cost.' The performance standard under that element required that '95% of field office decisions [be] issued within 120 days.'"⁵⁸ Appellant easily met this "critical" standard. During his tenure less than four percent of the applicable cases exceeded the 120-day limitation.⁵⁹ The MSPB simply offers no reason to doubt

ny of the employee who stated that appellant carefully discussed with him and critiqued each of his cases. Testimony of Mr. Tape, reprinted in TR at 324.

52. *Id.* at 326.

53. Stipulations at ¶ 23, reprinted in JA at 33.

54. EEO Report at 4, reprinted in JA at 68.

55. Stipulations at ¶ 4, reprinted in JA at 30.

56. *Id.* at ¶¶ 2, 4, 5, 15, reprinted in JA at 30-32.

57. Testimony of Ms. Johnston, reprinted in TR at 754.

58. Stipulations at ¶ 7, reprinted in JA at 31.

59. Supplemental Stipulations at ¶ 2, reprinted in JA at 39.

the appraisal of appellant's supervisor that he "performed extremely well in an office with a very heavy workload and many unusual and difficult cases."⁶⁰

The final reason offered by Redenius in support of his contention that appellant was a poor CAO was that appellant's work product was "sloppy" and "erratic."⁶¹ But this claim is belied by those directly responsible for supervising appellant. He constantly received the highest ratings for his work product, for his judgment and problem solving ability, for his writing skills and for his knowledge of the law and of investigative methods.⁶² Nowhere in the Record does MSPB attempt to contradict these appraisals. Furthermore, as already noted, witnesses who worked for both men testified that appellant was more knowledgeable in the field than his successor.

Only one conclusion is possible from the evidence. The MSPB's treatment of appellant did not stem from his poor performance as CAO. Yet this was the only justification offered by the MSPB in the face of appellant's prima facie case of discrimination.

D. Conclusion

The district court characterized the initial CAO selection procedure as "unusual."⁶³ The term seems mild for the disregard shown and misrepresentations made to appellant,⁶⁴ especially in light of his long, dedicated service to the agency. The second selection process, when the CAO position was upgraded to the Senior Executive Service, was found to be "pro forma," with no attention paid to evidence that appellant

60. Evaluation of Employee Performance for Thomas Lanphear (Feb. 1979) at 4, reprinted in JA at 47, 50.

61. EEO Report at 4, reprinted in JA at 68.

62. See note 3, *supra*.

63. Mem.Op. at 8, reprinted in JA at 27.

64. Mem.Op. at 2-3, reprinted in JA at 21-22 ("The plaintiff also presented evidence that he was never advised that he was in an 'acting' status until Nov. 1979 and he never received formal written notification of the change in his status. His attempts to ascertain his exact

had performed better as CAO than his successor."⁶⁵ With respect to both selection procedures, appellant has demonstrated by a preponderance of the evidence that he was a victim of discrimination in violation of Title VII.

The judgment of the district court is reversed and the case is remanded with instructions to enter judgment for the appellant Thomas Lanphear and to award him appropriate relief.

So ordered.



Regional Directors
Administrative Officers and Assistants

Recruitment of Attorney-Examiners

Please refer to the attached vacancy announcement for an attorney-examiner position. You must fill in the issue and closing dates in the upper right corner. The issue date should be the first day you post or circulate the announcement. The closing date is at your discretion, however, for maximum flexibility, I suggest using "open until filled." That would permit you to fill the vacancy immediately or to wait for a highly qualified candidate. That flexibility is especially useful when more than one position is to be filled.

Should you use "open until filled" as your closing date, you must close the vacancy announcement on a date certain at some point. Technically there is no restriction on the amount of time an announcement may remain open. It is practical to close the announcement when all positions have been filled or when further recruitment is unnecessary. To accomplish this the attached blank vacancy announcement should be used. All information above the duties and responsibilities section should be filled in the same way the vacancy announcement read. In addition, "(Revised)" must be added after the announcement number on the top line and, in the duties and responsibilities section you should indicate that "This vacancy announcement closed (date)." The closing announcement should be circulated to the same organizations and be placed on the same bulletin boards as the original announcement. It should not be circulated to any publications which must be paid for advertising.

It is imperative that applicants satisfy the qualification requirements specified on page one. You may not consider for the position applicants who do not meet these requirements. Page two of the announcement instructs applicants to mail applications to your administrative officer or assistant. You should have that individual screen the material to weed out applicants who do not meet the qualification requirements. Please refer to MSPB Order No. 1412.1 (February 2, 1981) on "Personnel Management -

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Excepted Service" for a more complete explanation of employment and advancement of excepted service attorneys generally and of preference consideration which must be given to veterans. Let Sue Mandle know if you do not have a copy of this Order.

Once you have narrowed your pool of applicants to those who are qualified, you must complete the attached "promotion certificate." The "certificate number" is "[your regional office] Ann. # ___-___." The "date certificate issued" is the date the completed certificate is forwarded to the "selecting official," which is the regional director. The "certifying official" must be different from the selecting official. The AO or AA should sign off as the certifying official after reviewing the applications and making sure that the name of each applicant who satisfies the qualification requirements is listed on the certificate. Under "Instructions" the names of those in your pool of qualified applicants should be listed alphabetically. If there is not enough space the list should be continued on an additional certificate labeled page 2, and so on if more pages are needed. The "deadline for returning certificate" (to the certifying official) is 30 days after the date issued. Within that time, the hiring selection should be made and the name of the selectee, or selectees if more than one position is being filled, should be indicated under "Selection" at the bottom of the certificate.

→ The ranking factors can be used for any further subdividing of applicants the selecting official wishes. Significantly, it is not contemplated that a numerical system be used for attorney positions. (See the attached FPM letter and accompanying decision.) Rather, the ranking factors are to be used as guidance, particularly when you have a large pool of qualified applicants. For example, in a hypothetical group of 75 qualified applicants you may distribute the applications in piles according to how many of the ranking factors the applicant has demonstrated experience with. You may decide to consider more seriously those who have actual experience with 75% or more of the factors. The important thing is to be consistent for the duration of the process and to document your method so that there is an audit trail which can be used to respond to any inquiries.

After you have decided who you wish to hire, the promotion certificate and supporting materials specified under "Instructions" should be forwarded to Pat Ealey in the Personnel Management Division. The Personnel Management Division will hold the materials for two years as required by regulations. You should retain a copy of the certificate for your records. Ms. Ealey will offer the formal commitment to the successful applicant as soon as possible after receiving the material. Understandably you will probably verify whether your tentative selection desires the position. However, you must make clear that the position is not formally committed until an offer is extended from the Personnel Management Division.

Do not hesitate to call me at 653-7120 if you have any questions.

Attachments

AMDRO:SMandle:ybc:3-8-82
RDAOA.YC



PROMOTION CERTIFICATE

Position Title, Series and Grade (Known Promotion Potential):	Certificate Number:
Organization:	Vacancy Announcement Number: Closing Date:
Date Certificate Issued:	Deadline for Returning Certificate to Personnel:

INSTRUCTIONS:

The candidates certified below have been rated "best qualified" under the Merit Promotion Plan procedures. Their applications and appraisals are attached. Any name on the list may be selected. Candidates eligible for non-competitive consideration may also be selected and are so noted. For interview guidelines refer to MSPB Order 1416.1, Chapter 3, Para. 3. Please place a check mark by each interviewed candidate.

Signature of CERTIFYING OFFICIAL	Date
SELECTION (Choice for Vacancy)	
Name	Proposed Effective Date
Signature of SELECTING OFFICIAL	TITLE Date

APPENDIX K

Office of Personnel Management

Federal Personnel Manual System

FPM Letter 302-5

FPM Letter 302-5 *R/c 10/11*

Published in advance
of incorporation in FPM

Chapter 302

RETAIN UNTIL SUPERSEDED

SUBJECT: Exemption of Attorney Positions from Procedural Requirements
for Appointments in the Excepted Service

Washington, D. C. 20415

September 24, 1979

Heads of Departments and Independent Establishments:

1. The Office of the Legal Counsel, Department of Justice, has ruled that the Office of Personnel Management (formerly the Civil Service Commission) is barred by its appropriation act, which prohibits examining for attorneys, from imposing or approving any rating system for use in hiring attorneys. A copy of the decision is attached.
2. In line with this ruling, current regulations governing appointments in the excepted service are being revised to exempt attorney positions. Agencies cannot be required to follow the requirements of part 302 of the regulations in developing attorney selection procedures. Agencies are expected, however, to provide preference to veterans under whatever procedures they use and to provide veterans, on request, with the reasons for their nonselection for attorney positions.
3. The Justice Department's decision applies only to attorney positions and does not change the regulations applicable to other positions in the excepted service. Agencies wishing to adopt alternative selection procedures for excepted positions not specifically excluded from coverage under part 302 of the regulations must still obtain Office approval as provided in section 302.105, or must enter into a delegation agreement allowing the agency to approve exceptions from the regulatory requirements, before the alternative procedures may be used.

Arch S Ramsay

Arch S. Ramsay
Associate Director
Staffing Services

Attachment

Inquiries: Inservice Placement Branch, Staffing Services, 632-4533

Code: 302 - Employment in the Excepted Service

Distribution: PFM

Assistant Attorney General
Office of Legal Counsel

Attachment to FPM Ltr 302-5

Department of Justice
Washington, D.C. 20530

10 APR 1979

MEMORANDUM FOR ALAN K. CAMPBELL
Director, Office of Personnel Management

Re: Attorney Hiring and the Veterans'
Preference Act

This responds to your February 2, 1979 request for our opinion on whether the Department of Justice attorney hiring procedures give effect to the Veterans' Preference Act. (Public Law 359, 78th Cong. 2d Sess. (1944); 58 Stat. 387, codified at 5 U.S.C. §§ 2108 and 3309-3320). You have also asked whether the Office of Personnel Management (OPM) 1/ may prescribe an examination procedure (particularly a numerical rating system) for the selection of attorneys. We are pleased to respond. For the reasons that follow it is our conclusion, first, that this Department's attorney hiring practices do fully take into account the preferences that Congress has afforded veterans, and second, that OPM is barred by its appropriations legislation from imposing a rating or other examination system on the hiring of attorneys within the Executive Branch.

In the competitive civil service, also called the classified civil service, the Veterans' Preference is implemented by adding a designated number of points to an eligible veteran's examination score. Section 3 of the 1944 Veterans' Preference Act, codified at 5 U.S.C. § 3309, prescribes the following point system in the competitive service.

1/ The Civil Service Reform Act of 1978, Public Law 95-454, 95th Cong., 2d Sess. (1978), and Reorganization Plan No. 2 of 1978 (43 Fed. Reg. 36037) divided the functions of the U.S. Civil Service Commission between two new agencies -- the Office of Personnel Management (OPM) and an independent Merit System Protection Board. Since the legislative history and Executive orders cited herein refer to the Civil Service Commission, we will use the terms "Commission" and "OPM" interchangeably.

A preference eligible who receives a passing grade in an examination for entrance into the competitive service is entitled to additional points above his earned rating, as follows --

- (1) a preference eligible under section 2108(3)(C)-(G) of this title -- 10 points; and
- (2) a preference eligible under section 2108(3)(A) of this title -- 5 points.

Section 2108 of Title 5 defines a "preference eligible" as an honorably discharged veteran who served in the armed forces under such conditions as are set forth in that section. Certain disabled veterans and, in some cases, their relatives or survivors are entitled to the 10-point preference provided by § 3309, while certain nondisabled veterans are entitled to a 5-point preference.

Although this point system was not mandated by statute until June 27, 1944, it had been implemented in the Executive Branch since March 3, 1923 pursuant to President Harding's Executive Order No. 3801, as amended. In this connection, the report of the Senate Civil Service Committee on the 1944 Veterans' Preference Act states that:

Section 3 [of the Act] would enact into law the 10-point preference for service connected disabled veterans and the 5-point preference for non-disabled veterans presently contained in civil-service rules.

Senate Report No. 907, 78th Cong., 2d Sess. p. 2 (1944). The 1944 Act merely gave legislative sanction to the then existing point system.

Although, by its terms, section 3309 applies only to the competitive service there is a suggestion in 5 U.S.C. § 3320 that such a system is required in the excepted service. This provision reads in pertinent part as follows:

Attachment to EPM-Ltr 3025 (3)
The nominating or appointing authority shall select for appointment to each vacancy in the excepted service in the executive branch . . . from the qualified applicants in the same manner and under the same conditions required for the competitive service by sections 3308-3318 of this title.

Since the point system is required in the competitive service by § 3309 it seems at first blush that the excepted service must also follow such a procedure. Upon closer scrutiny, however, it may be seen that this is not the case. Section 3320 in its present form is a result of Public Law 89-554, 89th Cong., 2d Sess. (1966); 80 Stat. 422, which combined and restated for clarity §§ 9, 2/ and 20 of the 1944 Veterans' Preference Act. See § 7 of Public Law 89-554. (Section 20 merely exempts application of the Act in the Legislative and Judicial Branches as well as advice and consent positions in the Executive Branch.)

The language of § 9 of the 1944 Act reads in pertinent part as follows:

In the unclassified federal . . . civil service . . . the nominating or appointing officer or employing official shall make selection from the qualified applicants in accordance with the provisions of this act.

This language is far less suggestive that a point system is required in the excepted service than the "clarifying" language of § 3320. Further, § 9 when read with the rest of the Act, particularly § 2, shows that it was intended to require that an employee preference was to be extended to those classes of preference eligibles listed in the Act. Section 2 of the 1944 Act provides in pertinent part that with respect to applicants for Federal employment in the unclassified civil service as well as the classified civil service "preference shall be given" to preference eligibles. The method of implementing this preference was spelled out for the competitive service, i.e., the point system. However, the general direction of § 2 that a preference be granted to eligible veterans is the language controlling application of the preference in the excepted service.

2/ Section 9, first codified at 5 U.S.C. § 858, is now codified at 5 U.S.C. § 3320.

Section 3309's system was modified in 1953 to provide, among other things, that preference points would be given only to those veterans receiving a passing score on an examination. 67 Stat. 581. Before this amendment the points were added to preference eligible scores if the points would bring the veteran to the qualifying score. Significantly, it was stated in the legislative history of this amendment that the amendment would affect "the veteran in the competitive civil service system." Senate Report No. 679, 83rd Cong., 1st Sess. 1 (1953). Thus, it seems that the drafters of the Senate Report believed that the point system is not required in the excepted service.

Moreover, the essential distinction between the competitive and excepted service is that positions in the former are filled on the basis of competitive examinations while those in the latter are not. See 5 U.S.C. §§ 2102, 2103. 3/ The Act contemplates continuation of the distinction. It makes reference to the unclassified service as well as the classified service. If examinations were required in the unclassified service this would result in the positions examined for being placed in the classified service, thereby eliminating the unclassified service. Therefore, the Veterans' Preference Act's reference to unclassified service would be inaccurate if it intended that all positions filled pursuant to the Act be subject to examination. Since there was no intent to erase this distinction and since the language of the Act itself requires that points be added only to an applicant's earned rating resulting from an "examination" 4/ we must conclude that the point system is not required in the unclassified service.

In considering both the question whether the Department's attorney hiring procedure gives effect to the Veterans' Preference Act and whether OPM could require that the Department implement a numerical rating system for attorneys we now turn to a historical examination of attorney hiring and veterans' preference.

3/ These provisions also were a result of Public Law 89-554, supra. They merely carried forward, without substantive change, their predecessor provisions (22 Stat. 406) with respect to the competitive service. See section 7 of Public Law 89-554. The earlier provisions noted this key distinction between the competitive and noncompetitive service.

4/ It might be suggested that a numerical rating system does not constitute an examination. However, we conclude in the discussion that follows that it does.

History of Attorney Hiring and Veterans' Preference Since 1941

President Franklin D. Roosevelt, by Executive Order No. 8044 (Jan. 31, 1939), appointed a committee to study and make recommendations on, among other things, how civil service procedures should apply to attorneys. In February 1941, that committee submitted its report entitled Report of the President's Committee on Civil Service Improvement, House Document No. 118, 77th Cong., 1st Sess. (1941). The report presented two major views--Plan A and Plan B-- on attorney selection procedures. 5/ Plan B recommended, at least in the case of inexperienced attorneys, that they be examined and rated competitively. Taking a contrary view, the authors of Plan A reasoned:

[I]t seems to us highly unwise to force the unique problem of the attorney positions into any general pattern simply for the sake of uniformity. Wise administration of the civil service, as of other organizations, may often indicate the need for flexibility and ad hoc adjustments, even at the cost of uniformity and symmetry

We therefore have considered and presented our recommendations on the assumption that the attorney positions present a unique problem in the professional service, which must be solved individually rather than by application of a general formula.

House Document, No. 118, supra at 32-33. Plan A's proponents thus recommended against a rating system for attorneys. They also objected to the application to attorneys of the competitive service procedure of certifying three applicants for each position to the appointing officer. See 5 U.S.C. § 3318. It was stated in this connection:

5/ Urging Plan A were Mr. Justice Reed, the committee's chairman, Mr. Justice Frankfurter, Attorney General Jackson, and Mr. Cato Dunn. Messrs. McReynolds, Leonard D. White and General Robert E. Wood, urged Plan B.

We feel that any mechanical ranking and certification would operate in an undesirably arbitrary manner, that the superior officer who is responsible for the appointee's work should have more voice in his selection, and that no principle of civil service or wise administration requires that there be an assumption of absolute accuracy in rating the candidates all of whom by definition are qualified to do legal work of a high order.

House Document, No. 118, supra at 38 (emphasis added). President Roosevelt in 1941 adopted Plan A in Executive Order 8743. This Executive Order is published in the United States Code under the notes and comments to 5 U.S.C. § 3301. That order directed that all attorney positions be brought into the competitive service and it created the Board of Legal Examiners which was to establish rules and procedures for attorney selection in the Federal Government. Subsection 3(d) of Executive Order No. 8743 set forth the functions of the Board as follows:

The Board in consultation with the Civil Service Commission, shall determine the regulations and procedures under this section governing the recruitment and examination of applicants for attorney positions, and the selection, appointment, promotion, and transfer of attorneys in the classified service.

The Executive Order also directed the Commission to establish a register of eligibles from which attorney positions were to be filled. And, § 3(f) of the order directed that:

registers shall not be ranked according to the ratings received by the eligibles, except that persons entitled to veteran preference . . . shall be appropriately designated thereon.

Thus, while an examining procedure was sanctioned to determine minimum attorney qualifications, a rating system was prohibited.

Attachment to FPM Ltr. 302-5 (7)

"The examination consists of a written test, an evaluation of the applicant's records, and oral examinations before the state and local boards." U.S. Board of Legal Examiners, Report to the President. 1941-1944, p. 34 (1945).

Numerical grades were not assigned upon the examination as a whole, but only upon the written test. The applicants who were recommended for inclusion upon the register were, however, given ratings of "Outstanding," "Excellent," "Good," and "Fair" on the basis of recommendations from the various examining boards. These descriptive ratings were shown upon the register list. The list also showed the length of professional experience of each individual included.

Id. at 36. The examination score determined who would be placed on the register of eligibles. The register was distributed to all government agencies and as appointing agencies they were given "unrestricted choice from among the eligibles" with respect to beginning attorney positions. Id. at 37. See also Hearing on H.R. 1025, a bill to create a Board of Legal Examiners in the Civil Service Commission, before a subcommittee of the Senate Committee on Civil Service, 78th Cong., 1st Sess. at 57-59 (1943). But at the same time the register directed the attention of appointing officers to their duty to prefer preference eligibles in making appointments. Id. at 47-48. However, there seems to have been no guidance as to how appointing officers were to fulfill this duty. Thus, veterans' preference points were added to the written examination score. This was, however, only a third of the total examining process. Moreover, the preference points were used only in the determination as to which applicants would be placed on the register of eligibles. Consequently, the points clearly benefited only those preference eligibles who received marginal examination scores and needed the points to qualify for listing on the register. Preference points were not used in the most important aspect of the employment process -- the actual appointment. Appointing agencies were merely instructed to "prefer" preference eligibles over other applicants. This preference at the appointing stage could only have been implemented by considering preference eligible status as a positive factor in the employment decision.

Attorney Examinations Barred

The Legal Examining Board established by Executive Order No. 8743 was destined to operate for but a short time. In 1942 the Senate proposed the following amendment to the Independent Offices Appropriation Act of 1943.

[N]o part of any appropriation in this act shall be available for the salaries and expenses of the Board of Legal Examiners created in the Civil Service Commission by Executive Order No. 8743 of April 23, 1941.

88 Cong. Rec. 3822. However, this language was deleted as part of a House-Senate compromise. In lieu of this amendment, the appropriation available for the Board of Legal Examiners was limited to \$80,000 "with the understanding that such authorization [was] not to be regarded as giving permanent status to this activity and that appropriations for future years [would] be dependant upon passage by the Congress of substantive law authorizing a Board of Legal Examiners." House Conference Report No. 2259, 77th Cong., 2d Sess. (1942); and statement of House Managers 88 Cong. Rec. 5441.

As the above quoted language indicates this restriction was sought by Congressmen who believed that the Board should have been created by legislation rather than by Executive Order. Such legislation later passed the House (89 Cong. Rec. 3565) however, it subsequently died in the Senate Civil Service Committee. See 90 Cong. Rec. 2659-60.

Whether the Legal Examining Board created by Executive Order 8743 should be continued was debated in the legislative history of the Independent Offices Appropriation Act of 1944. It is there made clear that the intent of the restriction was to prohibit "any civil service examination of lawyers." 90 Cong. Rec. 2659 (1944). See also 90 Cong. Rec. 2660-61. This prohibition was based largely on the view that the Commission has no business in determining the "relative qualifications" of attorneys. 90 Cong. Rec. 2661. The premise underlying this view was that the Commission was not competent to pass on the qualification of lawyers.

90 Cong. Rec. 2661 (1944). 6/ The restriction thus became law. It reads as follows:

[N]o part of any appropriation in this Act shall be available for the salaries and expenses of the Board of Legal Examiners created in the Civil Service Commission by Executive Order Numbered 8743 of April 23, 1941.

57 Stat. 173 (June 26, 1943). 7/

A virtually identical restriction has been included in each subsequent Commission appropriation since 1944. This appropriation governing OPM's present activities, that is for fiscal year ending September 30, 1979, reads as follows:

No part of the appropriation herein made to the Civil Service Commission shall be available for the salaries and expenses of the Legal Examining Unit 8/ of the Commission established pursuant to Executive Order 9358 of July 1, 1943 [8 Fed. Reg. 9175], or any successor unit of like purpose.

Public Law 95-459, 95th Cong., 2d Sess. (1978); 92 Stat. 1007.

6/ Although it was suggested that a legal examining board for Executive Branch attorney positions be established in the Justice Department (90 Cong. Rec. 2661 (1944)) this has never been done.

7/ This restriction placed attorney positions in a peculiar situation. They were, pursuant to Executive Order No. 8743, in the competitive service. However, because of the restriction the Commission could not conduct attorney examinations. The restriction was placed in each subsequent Commission appropriation and finally in 1947 President Truman, by Executive Order 9830, placed all attorney positions in the excepted service.

8/ The reference to the "Legal Examining Unit of the Commission" rather than the Board of Legal Examiners was occasioned by Executive Order No. 9358, which vested the power of the Board in the Commission. Some members of Congress had questioned whether the Board should be continued absent specific legislation. Thus,

(Footnote 8/ continued on page 10)

Attachment to FPM Ltr. 302-5 (10)

Thus, it is plain that the Commission may not, in light of the continuing appropriation restriction, require civil service examinations for attorneys. 9/ A rating system such as has been suggested for attorney hiring is one form of a civil service examination and was frequently used to "examine" for attorney positions. This examining procedure is called an "unassembled examination."

The unassembled examinations, long used for skilled-trades positions, were adopted for use in examinations for high-grade administrative and professional positions. In the unassembled examination the competitor does not take a written examination, but is rated instead on his knowledge and experience evidenced by his education and by the positions he had previously held.

History of the Federal Civil Service: 1789 to the Present, U.S. Civil Service Commission (1941) at p. 77. The Board of Legal Examiners itself recognized such examinations for attorney positions in the civil service. U.S. Board of Legal Examiners Report, supra, pp. 14, 27 and Appendix H. In fact, one phase of the Board's examining procedures, the evaluation of the applicant's records, was an unassembled examination. Therefore, an attorney rating system amounts to a civil service examination and for that reason may not be required by OPM.

8/ continued from page 9.

Executive Order No. 9358 transferred the Board's authority to the Commission "[p]ending action by the Congress with respect to the continuance of the Board." The 1943 appropriation restriction and subsequent restrictions, of course, barred further action by the Board.

9/ It might be argued that the Commission would not be imposing selection procedures if it only requires that agencies establish their own procedures. However, if the Commission purports to have the power of approval or rejection of such procedures this approval power would be tantamount to Commission imposition of selection procedures for attorneys.

The debators of the 1944 appropriations restriction did not fail to discern its effect on veterans' preference. Senator Burton, for example, stated that the termination of civil service examinations for attorneys would "do away with veterans' preference" with respect to those positions. 90 Cong. Rec. 2660-61 (1944). Although we agree with Senator Burton insofar as the ban on Commission examination of attorneys denies the Commission the ability to impose a numerical rating system on attorneys, we disagree with him in that we believe implementation of the Veterans' Preference Act is possible without such a system.

The Department's Present Attorney Hiring Procedures

This Department believes that it is obliged to apply the Veterans' Preference Act in some meaningful fashion with respect to attorney hiring. To that end, on all Justice Department employment applications is the question whether the applicant is claiming veteran's preference. The fact that a person is a preference eligible is weighed as a positive factor in the employment decision in the Department's regular attorney hiring program. 10/ We have been informed that this factor often accounts for the selection of the veteran over other attorney applicants, and that this is especially so when the veteran's other qualifications place him in close competition with other applicants. In such cases the veteran is preferred over other applicants with substantially equal qualifications. //

This procedure is consistent with application of the Veterans' Preference Act as regards attorney hiring since 1941. As stated above, Executive Order 8743 by prohibiting an attorney rating system resulted in a situation in which veterans' preference could be implemented only by considering it positively in the employment decision. Congress in response to the Executive Order, rather than requiring a rating system, further

10/ The Department is experimenting with a numerical rating system in its Honor Program which is geared toward the hiring of attorneys directly out of law school and accounts for approximately 15% of the Department's attorney recruitment. In this experimental program veterans do receive additional rating points. In this connection it should be noted that while OPM is barred by its appropriation legislation from implementing attorney examination systems, this bar does not extend to other agencies, not similarly restricted, that might wish to implement or experiment with rating or other examining systems in their own attorney hiring procedures.

Attachment to FPM Ltr. 302-5 (12)

restricted Commission control over attorney selection by barring the Commission from examining attorneys even to determine minimum qualifications. Thus, Congress implicitly sanctioned the implementation of the Veterans' Preference Act with regard to attorney hiring by use of a procedure such as ours.

In sum, we believe that our attorney hiring procedure gives full effect to the Veterans' Preference Act, and as we discuss above, we do not believe that OPM may require that the Department implement a numerical rating system since this is a form of civil service examination and OPM is prohibited by its appropriation restriction from requiring such examinations for attorneys.

John N. Harmon
Assistant Attorney General
Office of Legal Counsel

Vacancy Announcement



APPENDIX L

Announcement No. : 82-10
Issue Date : April 2, 1982
Closing Date : Open Until Filled
Area of Consideration: All Sources in the
San Francisco Metropolitan
Area

POSITION: Attorney-Examiner, GS-905-12/13/14

ORGANIZATION LOCATION: Merit Systems Protection Board
San Francisco Regional Office

PROMOTIONAL POTENTIAL: May have promotion potential -
to GS-15

GEOGRAPHIC LOCATION: Merit Systems Protection Board,
San Francisco Regional Office
525 Market St. (Rm 2400)
San Francisco, CA 94105

SALARY RANGE: GS-12, \$28,245-\$36,723 GS-14, \$39,689-\$51,596
GS-13, \$33,586-\$43,666

DUTIES AND RESPONSIBILITIES: The Merit Systems Protection Board is a quasi-judicial agency created by the Civil Service Reform Act of 1978. The appeals function is responsible for adjudicating all types of appeals from Federal employees and applicants for employment arising under the Act, e.g., removals, suspensions, reductions-in-force, reductions in pay, reemployment rights, etc., under rules and regulations of the Board, which have the effect of law.

The Board exercises two types of jurisdiction, original and appellate. The Board's original jurisdiction is over cases in which no formal agency action has been taken, and its appellate jurisdiction is over cases specified in the Reform Act where there have been prior actions within an agency.

Listed below are typical duties which may vary depending on grade level of position being filled. The incumbent receives appeals from Federal employees, former employees, applicants, and appropriate successors in interest in accordance with the Civil Service Reform Act, regulations of the Office of Personnel Management, and other laws and regulations when applicable. Whenever required procedures for effecting personnel actions are established, incumbent determines compliance or whether harmful error occurred from any non-compliance. Incumbent determines whether formal hearing is appropriate and whether it will be open to the public should an objection be made by either party. **INCUMBENT CONDUCTS FORMAL HEARING AND WRITES DECISIONS.** Position requires travel as appellate workload requires. Assignment to other appellate organizational segments on a temporary or permanent basis as part of career development may occur.

QUALIFICATION REQUIREMENTS: Applicants must have general and specialized experience as described below. This requirement is in accordance with the OPM-X-118 Handbook, available in your Personnel Office, which specifies when and how education may be substituted for the experience. Applicants must also meet, when specified, Selective Placement Factors listed below:

All qualifications for this position are in accordance with Board qualification standards for the hiring of attorneys. **ALL APPLICANTS MUST BE LAW SCHOOL GRADUATES AND HAVE BAR MEMBERSHIP. IN ADDITION THE FOLLOWING REQUIREMENTS MUST BE MET**

GS-12 Two years of professional legal experience -or- second law degree (LL.M) plus one year of professional legal experience -or- Superior law student work plus one year of professional legal experience.

GS-13 Three years of professional legal experience -or- second law degree (LL.M) plus two years of professional legal experience -or- Superior law student work plus two years of professional legal experience.

GS-14 Four years of professional legal experience -or- second law degree (LL.M) plus three years of professional legal experience -or- Superior law student work plus three years of professional legal experience.

QUALITY OF EXPERIENCE: At least one year of the required experience at each grade level must be equivalent to the next lower grade for which application is made.

One year of experience in hearing/adjudicating cases, including the interpretation of laws, rules, regulations, etc., may be substituted for each year of the required professional legal experience.

RANKING FACTORS: Applicants who meet the qualification requirements described above will be further evaluated by determining the extent to which their education, work, or related experience, training, awards or professional recognition and supervisory appraisals indicate they possess or have the potential to acquire knowledges, skills, and personal characteristics described below:

Knowledge of the established process for dispute resolution. Familiarity with Federal civil service and EEO laws, rules, regulations, and court decisions. Ability to analyze facts and develop sound conclusions and make reasoned rulings on motions, offers of proof, etc. Ability to develop case records and produce case decisions in a timely manner. Ability to establish and maintain effective working relationships. Ability to communicate effectively orally and in writing. Ability to maintain a judicial temperament and impartiality.

Factors will be applied based on requirements of grade level applied for.

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

TO APPLY: For each announcement under which application is made, the following must be submitted: (a) Complete Supervisory Appraisal Form attached and (b) a current completed Personal Qualifications Statement, SF-171. Rankings will be based solely on information contained in the applicant's SF-171 and the supervisory appraisal. Applications and Supervisory Appraisals must be received no later than close of business on the closing date. They should be sent to the Merit Systems Protection Board, San Francisco Regional Office, 525 Market St., Rm 2400, Attn: Vacancy No. 82-10 San Francisco, CA 94105. The necessary forms are available at the above address. For further information about the vacancy, telephone Joanne Hurst on (415) 454-9703. Applications submitted become the property of the Merit Systems Protection Board and will not be returned.

QUALIFIED APPLICANTS WILL RECEIVE CONSIDERATION WITHOUT REGARD TO SUCH NONMERIT FACTORS AS RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, POLITICAL AFFILIATION, MARITAL STATUS, NON-DISQUALIFYING HANDICAPS, MEMBERSHIP OR NON-MEMBERSHIP IN AN EMPLOYEE ORGANIZATION OR PERSONAL FAVORITISM.

PRIVACY ACT INFORMATION: The application you submit for this position contains information subject to the Privacy Act of 1974 (P.L. 93-579, 5 U.S.C. 552 a). Information regarding this act is available upon request in the Personnel Management Branch, Merit Systems Protection Board.

PERSONAL INFORMATION SUPPLEMENT

This voluntary supplement is to allow applicants to highlight those knowledges, skills and abilities which will be used to evaluate candidates for the position(s). For each of the factors, please indicate the SF-171 section(s) where you feel the factor is best demonstrated. If there are additional projects, details, work assignments or outside activities which demonstrate your ability to perform the factor, use the space provided and/or additional paper as needed for other factors. You will receive consideration even if you choose not to complete this form.

Factors that applicants will be evaluated on:

Factor I Knowledge of the established process for dispute resolution. Demonstrated on SF-171 in Sections _____.

Factor II Familiarity with Federal civil service and EEO laws, rules, regulations, and court decisions. Demonstrated on SF-171 in Sections _____.

Factor III Ability to analyze facts and develop sound conclusions and make reasoned rulings on motions, offers of proof, etc. Demonstrated on SF-171 in Sections _____.

Factor IV Ability to develop case records and produce case decisions in a timely manner. Demonstrated on SF-171 in Sections _____.

Factor V Ability to establish and maintain effective working relationships. Demonstrated on SF-171 in Sections _____.

Factor VI Ability to communicate effectively orally and in writing. Demonstrated on SF-171 in Sections _____.

Factor VII Ability to maintain a judicial temperament and impartiality. Demonstrated on SF-171 in Sections _____.

**Merit
Systems
Protection
Board**

**ORDER
TRANSMITTAL**

No: 1412.1

Date: February 2, 1981

PERSONNEL MANAGEMENT - EXCEPTED SERVICE

Material Transmitted:

This Order establishes policy and procedures for the employment and advancement of attorneys. It also contains policy and procedures for the recruitment and employment of law clerks and legal student trainees.

Material Superseded:

None.

Filing Instructions:

File the attached material in numerical order with MSPB issuances.



**J. W. Morava
Director
Office of Administration**

Distribution: ALL MSPB OFFICES AND ALL SUPERVISORS

**Merit
Systems
Protection
Board**

ORDER

No: 1412.1

Date: February 2, 1981

PERSONNEL MANAGEMENT - EXCEPTED SERVICE

EMPLOYMENT AND ADVANCEMENT OF EXCEPTED SERVICE ATTORNEYS

1. PURPOSE. This Order establishes Merit Systems Protection Board (MSPB) policy and procedures for the recruitment, initial employment and advancement of excepted service attorneys (GS-905 series). It also contains MSPB policy and procedures for the recruitment and employment of law clerks (GS-904 series) and legal student trainees (GS-099 series).

2. REFERENCES.

a. The Civil Service Reform Act of 1978 (P.L. 95-454), which created the MSPB, encouraged increased legal expertise to administer the Act and authorized the appointment of such personnel as may be necessary to perform the functions of the Board.

b. Title 5, Code of Federal Regulations (CFR), section 302.102 provides that ". . . each appointment, position change, and removal in the excepted service shall be made in accordance with any regulations or practices that the head of the agency concerned finds necessary."

c. Federal Personnel Manual (FPM) Chapter 930, Subchapter 3 contains hiring patterns and guidelines for entrance level attorney and law clerk positions.

3. POLICY. The recruitment and development of an exemplary and representative legal staff is essential to the effective operation of the Board. Therefore, it is the policy of the Board to:

a. require that an attorney proposed for appointment possess bar membership and the necessary minimum qualifications as described in Appendix A, plus any job related specialized qualifications required for adequate performance in the particular attorney position;

b. provide an equal employment opportunity to all qualified applicants who apply to the Board for excepted service attorney, law clerk, and legal student trainee positions;

c. consider as a positive factor in employment decisions the fact that an applicant is a preference eligible (veteran);

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d. take all excepted service personnel actions without regard to race, color, religion, sex, age, handicap, national origin, or other non-merit factor;

e. authorize high performing attorneys to receive "career ladder" promotions without further competition when applicable criteria are met (see paragraph 4); and

f. pending the issuance of an attorney rotational development program, encourage MSPB attorneys desiring assignment to another MSPB location or type of legal work to apply for such consideration under appropriate MSPB vacancy announcements or to make their desires for reassignment known to their supervisor.

4. "CAREER LADDER" PROMOTIONS. An MSPB attorney may receive a "career ladder" promotion to the next higher nonsupervisory grade in the same location and MSPB organization without competition when the following requirements are met:

a. Normal Situations. (All of the following requirements must be met.)

(1) nonsupervisory higher grade duties are available in the same location and organization where the attorney works;

(2) the attorney meets the applicable requirements for the next higher grade prescribed in Appendix A;

(3) the attorney has received an MSPB summary rating of "Fully Successful" or better in a performance appraisal which was completed since acquiring the current grade and has demonstrated the ability to adequately perform at the next higher grade level; and

(4) the immediate supervisor submits a Request for Personnel Action (Standard Form 52) through the approving manager to the Director, Personnel Management Division.

b. Exceptional Situations. The Managing Director may approve an accelerated "career ladder" promotion to avoid undue hardship or inequity for an attorney who meets all of the requirements in 4a, except for the applicable grade level qualification requirements prescribed in Appendix A. To qualify for this exception, the attorney must:

(1) be within six months of fully meeting the applicable grade level qualification requirements prescribed in Appendix A;

(2) have received an MSPB summary rating of "Meritorious" in a performance appraisal completed since acquiring the current grade; and

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(3) be recommended for an accelerated "career ladder" promotion by the immediate supervisor with concurrence by the office head.

5. RECRUITMENT ACTIONS. The following procedures apply when an attorney position is vacant and recruitment action is necessary to obtain qualified candidates.

a. First Level Supervisor. To initiate recruitment action, the first level supervisor:

* §- (1) prepares an SF 52 for the position;

(2) if the position has not been classified, attaches to the SF 52 a list of the minimum duties and responsibilities commensurate with the proposed grade;

(3) for recruitment purposes, attaches to the SF 52 a separate list of any selective factors (such as trial experience or investigative experience) that are necessary and job related and that all candidates must have to adequately perform in the position;

(4) obtains approval (in Item I of the SF 52) to fill the position from the official having this delegated authority; and

(5) submits the approved SF 52 and the attachments to the Personnel Management Division.

b. Personnel Management Division. Upon receiving approval to fill the position, the Personnel Management Division takes the following actions:

(1) Classifying the Position. A job description will be prepared if the position has not been classified.

(2) Developing Selective Factors. Using the list provided by the first line supervisor, selective factors (specialized qualifications) will be prepared and coordinated with the selecting supervisor. (The Personnel Management Division is responsible for assuring that all selection devices such as rating forms and assessment forms are job related and based on an analysis of the position to be filled.)

* (3) Preparation of Vacancy Announcement. When a current vacancy announcement (or a list of eligibles from a previous announcement) cannot be used, a vacancy announcement will be prepared containing the following (minimum) items:

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(a) Opening and Closing Dates. Specify three weeks unless otherwise specified by the Director of Personnel.

(b) Area of Consideration. Specify nationwide or limited to one or more geographic locations depending on the grade level, position location(s), and number of positions anticipated to be filled under the announcement.

(c) Grade and Minimum Qualification Requirements. Specify the grade (or grades), requirement for bar membership, and applicable qualification requirements contained in Appendix A of this Order.

(d) Major Duties and Responsibilities. Provide a clear statement including any selective factors (specialized qualifications).

(e) Assessment Form. Provide an assessment form for the applicant's supervisor to complete.

(f) Supplementary Information. Request applicants to provide supplementary information on the selective/quality ranking factor beyond minimum qualifications, e.g., writing sample and law school advisor's opinion of how the candidate could perform the major duties of the position.

(g) Where to Apply. Specify where and to whom the Standard Form 171 and other required data is to be sent, that the SF 171 must be received by the closing date, and that a resume will not be accepted in lieu of SF 171.

(h) Further Information. Provide name and telephone number.

(4) Distribution of Vacancy Announcements. Announcements will be distributed to appropriate MSPB organizations and to the various external organizations that will assure adequate public communications of job opportunities to all applicant populations.

6. ACTING ON APPLICATIONS.

a. The Personnel Management Division. The Personnel Management Division is responsible for:

(1) determining if applicants meet or do not meet the minimum qualification requirements;

(2) notifying those applicants who do not meet the minimum qualification requirements, or whose applications were received after the closing date, that no further consideration can be given under the announcement for those reasons;

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(3) preparing a certificate alphabetically listing those applicants who meet the minimum qualification requirements;

(4) giving the certificate, related applications, and other pertinent data to the selecting supervisor;

(5) notifying those not selected from the certificate of this fact upon return of the completed certificate (see paragraph 6(b)(5) below); and

(6) making all hiring commitments to selected applicants through personal and/or written communications (see paragraph 6(b)(5) below).

b. The Recruiting Supervisor. The recruiting supervisor is responsible for:

(1) dividing the applications received from the Personnel Management Division into two groups—those that meet only the basic qualifications required for the position are placed in one group and all of the other applications are placed in the "well-qualified" group;

(2) establishing a rating schedule based on the quality ranking factors for the position;

(3) ranking the "well-qualified" candidates through the use of the rating schedule;

(4) conducting interviews (by telephone or in-person) with the highest ranked candidates; and

(5) selecting any "well-qualified" candidate(s) and sending the following documents to the Personnel Management Division for use in making hiring commitments and for record purposes:

(a) the completed certificate indicating the names of the interviewed and selected candidate(s);

(b) the applications and supporting data used in evaluating eligible candidates; and

(c) the rating schedule used in ranking the candidates.

7. LAW CLERKS AND LEGAL STUDENT TRAINEES.

a. Law Clerks. Employment of law clerks (GS-904 series) may be made at either the GS-9 or GS-11 level; such appointments may not exceed 14 months. The

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qualification requirements in Appendix A apply in filling law clerk positions and for determining the applicable GS grade level, except that bar membership is not required for law clerk positions.

b. Legal Student Trainees. Employment of legal student trainees (GS-099 series) is restricted to law students who have completed at least one full year of law school. Selected applicants who have not completed the second year of law school will be employed at the GS-7 level; after completion of the second year of law school, employment will be at the GS-8 level. Employment of legal student trainees will normally be confined to the summer law school vacation period. However, a small number of trainees may be employed for initial periods not-to-exceed one year if needed for longer periods by the various Board offices; such trainees may be reappointed after one year provided law school enrollment continues and performance and conduct warrants reappointment.

c. Application Process. Applications for law clerk and legal student trainee positions may be submitted at any time to the Personnel Management Division and will be retained for a six-month period. Publication of an announcement for these positions will be considered only if the number of applications received without an announcement is insufficient to provide for quality recruitment or an announcement is necessary to develop a more representative applicant recruitment pool. Supervisory interviews (by telephone or in-person) will be limited to the most promising applicants when the Board's resources are insufficient to interview all applicants.

MSPB ORDER 1412:1
APPENDIX A

MINIMUM QUALIFICATION REQUIREMENTS
FOR MSPB ATTORNEY POSITIONS

All attorney positions require bar membership plus education and experience as defined below for the several grades:

1. GS-9. The first professional law degree (LL.B or J.D.).
2. GS-11. The second professional law degree (LL.M.); or the first professional law degree (LL.B. or J.D.) plus one year of professional legal experience; or the first professional law degree (LL.B. or J.D.) plus one of the criteria for superior law student work defined below is qualifying for GS-11 attorney:
 - a. academic standing in the upper 1/3 of the law school graduating class; or
 - b. work or achievement of significance on the law school's official law review; or
 - c. special high-level honors for academic excellence in law school (e.g., election to Order of the Coif); or
 - d. winning of a moot court team which represents the law school in competition with other law schools; or
 - e. full-time or continuous participation in a legal aid program (as opposed to intermittent or casual participation); or
 - f. significant summer law clerk experience; or
 - g. other equivalent evidence of clearly superior achievement.
3. GS-12. The qualification requirements for GS-12 attorney are the same as for GS-11 and one of the following:
 - a. one year of professional legal experience at a level of difficulty comparable to GS-11; or
 - b. two years of professional legal experience, one of which must be at a level of difficulty comparable to GS-11; or
 - c. second professional law degree (LL.M.) plus one year of professional legal experience at a level of difficulty comparable to GS-11.

4. GS-13. The qualification requirements for GS-13 attorney are the first professional law degree (LL.B. or J.D.) and one of the following:

a. superior law student work or activities (see GS-11) plus two years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-12; or

b. first professional law degree (LL.B. or J.D.) plus three years of professional legal experience, at least one of which must be at a level of difficulty comparable to GS-12; or

c. second professional law degree (LL.M.) plus two years of professional experience, at least one year of which must be at a level of difficulty comparable to GS-12.

5. GS-14. The qualification requirements for GS-14 attorney are the first professional law degree (LL.B. or J.D.) and one of the following:

a. superior law student work or activities (see GS-11) plus three years of professional experience, at least one year of which must be at a level of difficulty comparable to GS-13; or

b. first professional law degree (LL.B. or J.D.) plus four years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-13; or

c. second professional law degree (LL.M.) plus three years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-13.

6. GS-15. The qualification requirements for GS-15 attorney are the first professional law degree (LL.B. or J.D.) and one of the following:

a. superior law student work or activities (see GS-11) plus four years of professional experience, at least one year of which must be at a level of difficulty comparable to GS-14; or

b. first professional law degree (LL.B. or J.D.) plus five years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-14; or

c. second professional law degree (LL.M.) plus four years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-14.

Subchapter 3. Hiring Pattern for Entrance-Level Attorney and Law Clerk Positions

3-1. BACKGROUND

a. **Purpose.** This subchapter contains guidelines for agencies to follow in hiring attorneys into entrance-level positions classified to the General Attorney Series, GS-905, and in hiring persons into positions classified to the Law Clerk Series, GS-904. The pattern covers attorney positions for which incumbents are required to be members of the bar and law clerk positions for which incumbents need not be members of the bar.

b. **Legal basis.** This hiring pattern is issued under chapter 51 of title 5, United States Code, and is binding for positions subject to that chapter. Section 5105 of title 5 requires OPM to develop classification standards based on duties and responsibilities of positions and the qualifications required to do the work.

c. **Appointments.** (1) Except for a few positions in the competitive service, attorney positions are required to be in the excepted service.

(2) Applicants who meet all requirements except bar membership are appointed in the Law Clerk Series, GS-904. Law clerk appointments are made under section 213.3102(e) of Schedule A (see appendix C, chapter 213), and the appointee must be admitted to the bar within 14 months or be separated.

(3) The hiring pattern described below applies to appointments in the Law Clerk Series, GS-904, as well as to appointments in the General Attorney Series, GS-905.

3-2. COVERAGE

a. **Grades included.** The grades covered in the pattern are GS-9 and GS-11. For each grade covered, this subchapter describes work typically performed and the qualification requirements. The descriptions of work are illustrative only. The variety of programs and organizations in agencies makes it impractical to list all the different types of assignments possible at each level.

b. **Use of guides.** (1) The duties to be assigned are the critical factor in setting the entrance level. In using these guides each agency will find it necessary to translate the generalizations into specifics for its work, consistent with the classification standards. Of course, the basis for classification grade level determinations will be the official position-classification standards for the General Attorney Series, GS-905, and not the illustrative descriptions in this subchapter.

(2) The requirements listed are not intended to preclude agencies from hiring attorneys at a lower level even though they meet qualification requirements for a higher level. The important determinant is the grade level warranted by the duties to be performed. The possession of a degree or high academic standing alone is not a sufficient basis for appointment at a higher entrance level.

(3) These guidelines are intended primarily to cover hiring of attorneys at entrance levels. The guidelines do not preclude the employment of *experienced* attorneys at grades above the entrance levels. Attorneys without experience may, in unusual circumstances, be employed at grade GS-12, provided the applicant has advanced educational attainments substantially beyond those indicated as required for work at the GS-11 level and his/her education clearly indicates ability to perform work of the type to be assigned, for example, education beyond the first professional degree which includes courses directly pertinent to the work of the agency. The essential point in these circumstances is to assure that the person's education has enabled him/her to step into complex legal work characteristic of the GS-12 level and to operate with the degree of independence and responsibility typical of that level.

3-3. PROVISIONS OF HIRING PATTERN

a. **Positions at grade GS-9.** (1) *Duties and responsibilities.* Assignments involve legal or factual questions which range from relatively simple to dif-

ficult. Some assignments at the GS-9 level may involve relatively easy research on clear-cut issues with adequate precedents. Other legal questions at the GS-9 level are difficult because of the complexity of the facts or the different possible constructions which may be placed on either the facts or laws involved. Cases are strongly contested in formal hearings or informal negotiations by the individuals, corporations, or agencies involved. In relation to cases of this scope, GS-9 entrance-level attorneys search case reports, legal documents, periodicals, and textbooks, and prepare tentative drafts of letters, memorandums, and legal documents for use by higher-grade attorneys. They assist attorneys in charge of court cases or administrative proceedings by interviewing and selecting witnesses, preparing them to give testimony, and suggesting questions to be asked in cross-examination. Attorneys who enter at the GS-9 level work under very close supervision. They receive specific preliminary instructions, their commitment authority is very limited, and their completed written work is carefully and closely reviewed.

(2) *Qualifications required:*

(a) *For attorney positions:* Membership in the bar.

(b) *For law clerk positions:* The first professional law degree (LL.B. or J.D.) or equivalent training. Equivalent training is that training permitted in some States in lieu of attendance at a law school. To be acceptable this training must be of the kind and nature required by the State in which the bar examination is taken, or is to be taken.

b. **Positions at grade GS-11.** (1) *Duties and responsibilities.* Assignments involve complex and difficult legal questions requiring extensive research, analysis, and evaluation of information in controversial areas. Cases have an important impact on major private or public interests, for example, a major extension or revision in a State grant program or a substantial question on civil rights. Cases are vigorously contested by capable legal talent as, for example, in an antitrust case. In relation to cases of this scope, GS-11 entrance-level attorneys prepare legal docu-

ments for filing by drafting complaints, orders to show cause, indictments, preliminary motions, and supporting affidavits and briefs. They prepare drafts of pleadings and motions for cases in litigation. They conduct investigations to obtain facts, study legal precedents, and prepare recommendations. They assist attorneys in charge of court cases by cross-examining witnesses, and by drafting findings of fact, conclusions of law, and orders based upon the records. As with attorneys described at the GS-9 level, GS-11 entrance-level attorneys work under close supervision. They receive preliminary instructions, their commitment authority is limited, and their completed written work is carefully reviewed.

(2) *Qualifications required for attorney positions and law clerk positions:*

- The GS-9 requirement *plus* one year of professional legal experience; or
- The GS-9 requirement *plus* the second professional law degree (LL.M.) which requires one full year of graduate study; or
- The first professional law degree (LL.B. or J.D.), *provided* the applicant's record shows superior law student work or activities as demonstrated by one of the following:
 - Academic standing in the upper third of the law school graduating class; or
 - Work or achievement of significance on his/her law school's official law review; or
 - Special high-level honors for academic excellence in law school, such as election to the Order of the Coif; or
 - Winning of a moot court competition or membership on the moot court team which represents the law school in competition with other law schools; or
 - Full-time or continuous participation in a legal aid program as opposed to one-time, intermittent, or casual participation; or
 - Significant summer law office clerk experience; or
 - Other equivalent evidence of clearly superior achievement.



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

ACCOUNTING AND FINANCIAL
MANAGEMENT DIVISION

B-214210

June 6, 1984

The Honorable Patricia Schroeder
Chairwoman, Subcommittee on Civil
Service
Committee on Post Office and
Civil Service
House of Representatives

Dear Madam Chairwoman:

Subject: Inquiry Into Allegations Against the Chairman,
Merit Systems Protection Board (GAO/AFMD-84-65)

Pursuant to your request of January 26, 1984, we reviewed the anonymous allegations you received regarding travel and leave activities of Herbert E. Ellingwood, Chairman, Merit Systems Protection Board, (MSPB). We also included in our review an allegation received over the GAO hotline concerning Mr. Ellingwood's use of a vehicle for home-to-work transportation. Our review covered the period December 18, 1981, when Mr. Ellingwood became Chairman, through February 23, 1984. We reviewed the Chairman's travel orders and travel vouchers, and conducted numerous interviews with MSPB officials.

Our work disclosed the following.

- During the time period reviewed the Chairman received thirty honorariums for speeches made to religious groups. Receipt of seven honorariums coincided with official travel, but in each instance, the speeches were made while he was on his personal time or on a leave of absence. The Chairman did not receive any honorariums for speeches made while conducting official business.
- The Chairman made five trips to California while on official travel; on all five of the trips he conducted official government business.
- The Chairman has made no attempt to cover-up the nature of his travel.

(911576)

- The MSPB's travel expenses for a January 1984 management conference could have been about \$9,900 less if the conference had been held in Washington, D.C., instead of San Francisco, California. The MSPB's rationale for the site selected is given below.
- The Chairman's trips to China were for personal reasons and at no cost to the government.
- The Chairman uses a chauffeured government vehicle for home-to-work transportation notwithstanding the provisions of 31 U.S.C. 1344, which establish such transportation as non-official. However, under a GAO decision dated June 3, 1983, the Chairman can continue such use until the end of the current session of Congress.
- MSPB appropriations were augmented when the New York Life Insurance Company paid the Chairman's lodging costs while he was visiting MSPB's New York Regional Office. Upon learning of a possible augmentation problem, the Chairman reimbursed the insurance company for the entire lodging costs.

The details of our review follow.

HONORARIUMS RECEIVED

It was alleged that the Chairman misused travel monies by taking official trips for the primary purpose of making speeches and receiving honorariums. We found that the Chairman took nineteen official trips where travel orders and travel vouchers were prepared during the period December 18, 1981, through February 23, 1984.^{1/} We were provided justification for each of the trips. On five of the trips, the Chairman received seven honorariums for speeches made to religious organizations (see encl. I). However, each speech was made while the Chairman was on a leave of absence or during his personal time. (An officer or employee of an agency may accept honorariums while on personal business as long as each honorarium does not exceed \$2,000, excluding expenses; and as long as the activity does not raise a conflict of interest.)

In addition, the Chairman received twenty-three other honorariums for similar speeches which were not made in conjunction with official travel. Again we determined that all the speeches were given during his personal time, or while on a leave of absence (see encl. II). Finally, we determined that the Chairman

^{1/}The Chairman determined in August 1983 that a June 1982 trip to Chicago was more personal than business, and repaid the government the \$280.29 he had been reimbursed for this trip.

made similar speeches on nine other occasions and while he did not receive honorariums, he was reimbursed for lodging and/or transportation expenses (see encl. III).

As a political appointee, the Chairman is exempt from the Annual and Sick Leave Act (5 U.S.C. 6301 (2)(x)); he is on call at all times and works whatever hours are necessary to meet his official responsibilities. The Chairman enjoys complete freedom to absent himself from duty as he sees fit. Thus, while on official travel the Chairman may determine hours for official work and for personal business that meet his needs. Our review showed that during calendar year 1982, the Chairman took a leave of absence on forty-nine workdays. In calendar year 1983 he took a leave of absence on twenty-nine workdays and during the period January 1, 1984 to February 23, 1984, he took a leave of absence on nine workdays.

TRIPS MADE TO CALIFORNIA
WHILE ON OFFICIAL TRAVEL

It was alleged that the Chairman traveled to California several times to conduct personal business at government expense, and that he was spending "many Mondays" in California conducting prayer meetings. Since the allegation was made anonymously, we could not follow it up to determine the significance of the involvement of Mondays in the allegation. Our review showed that the Chairman visited California on five of the nineteen occasions while on official travel and that three of the trips included Mondays.^{2/}

According to MSPB officials, the five trips to California were necessary because of conditions in the San Francisco Regional Office. The former director of the San Francisco Regional Office resigned shortly before the Chairman took office, in December 1981, and a number of acting regional directors had been directing office operations. MSPB cases were not being processed in a timely manner and there were difficulties with the performances of both the former and current administrative officers. MSPB provided the following descriptions of the Chairman's business agendas during each trip:

March 1982	--conferred with Acting Regional Director.
April 1982	--met with new Regional Director and staff, and with General Services Administration regarding office space problems.

^{2/}A travel voucher for a June 1982 trip to Chicago mentions another trip to California that the Chairman made on his own time and at his own expense. He received two honorariums while in California on this trip.

January 1983 --discussed case tracking, case backlog, and office space issues.

September 1983 --performed a management review of the office with the Managing Director and Executive Assistant.

January 1984 --attended MSPB management seminar in San Francisco, in conjunction with the regional directors meeting.

ALLEGED COVER-UP OF TRAVEL

It was alleged that the Chairman attempted to cover-up the nature of his trips after congressional investigators inquired about his travel in April or May 1983. We contacted the congressional office involved and found that the office had received allegations involving the Chairman's travel activities. The allegations were similar to those received by GAO. The congressional staff said that their review did not disclose any irregularities in the Chairman's travel. Our review did not disclose any attempts to cover-up the nature of the Chairman's trips.

REGIONAL DIRECTORS MEETING/MANAGEMENT CONFERENCE HELD IN SAN FRANCISCO, CALIFORNIA

It was alleged that the Board spent thousands of dollars to send more than a dozen headquarters officials to California for a management conference when the same meeting could have been held in Washington, D.C., at little or no cost. We found that the MSPB did hold a Regional Directors Management Conference in San Francisco, California, on January 26 and 27, 1984. Twenty-seven employees attended the conference; sixteen were from Washington, D.C., and eleven were from each of MSPB's eleven regional offices.

MSPB officials provided the following explanation and documentation for having the conference in San Francisco:

--The past pattern was to bring regional participants to the Washington, D.C. area for the conferences. (Reston, Virginia, in August 1982; Leesburg, Virginia in December 1982; and Emmitsburg, Maryland in October 1983). The MSPB scheduled this activity in San Francisco because they wanted to hold some of the conferences in regional offices. They scheduled San Francisco for January 1984, Boston for May 1984 and Chicago for August 1984. However, the proposed Boston conference was held in Washington, D.C. and the Chicago conference has been cancelled.

--The reason for the sixteen headquarters participants was because the San Francisco regional directors' conference was expanded to include headquarters managers who had attended a planning workshop held in conjunction with the October 1983 Emmitsburg regional directors meeting. Documentation provided by the MSPB showed that the workshop was not completed and was continued in San Francisco to provide regional directors an opportunity to have input into plans and goals for the next twelve to eighteen months.

MSPB spent \$13,520 on travel expenses to hold the conference in San Francisco, California. Using the General Service Administration's transportation and per diem rates, we determined that if the conference had been held in Washington, D.C., the travel cost would have been about \$3,640, or about \$9,900 less than the travel expenses for the San Francisco conference.

TRIPS TO CHINA

It was alleged that the Chairman may have taken personal trips to China at government expense. We found that the Chairman made two personal trips to China, one from October 30, 1982, to November 18, 1982, and the second from February 8, 1984, to February 19, 1984. We determined that the Chairman took a leave of absence on those dates and that no travel orders or travel vouchers were processed for either trip. The government, therefore, did not incur any expenses.

MISUSE OF GOVERNMENT VEHICLE

It was alleged that the Chairman has a government driver pick him up at his home in the morning and take him home from work at night in a government vehicle.

We found that the Chairman does use a government driver and vehicle for home-to-work transportation and that this is prohibited by 31 U.S.C. 1344. However, the Chairman is within the purview of a GAO Comptroller General decision (B-210555), dated June 3, 1983, entitled, "Use of Government Vehicles for Transportation Between Home and Work," which notes that there is some uncertainty throughout the government about who may receive home-to-work transportation in spite of the statutory prohibition against using such transportation. The decision states in part:

"Because so many agencies have relied on apparent acquiescence by the Congress during the appropriations process when funds for passenger vehicles were appropriated without imposing any limits on an agency's discretion to determine the scope of "official business,"

and because dicta in GAO's own decisions may have contributed to the impression that use of cars for home-to-work transportation was a matter of agency discretion, GAO does not think it appropriate to seek recovery for past misuse of vehicles, (except for those few agencies whose use of vehicles was restricted by specific Congressional enactments). This decision is intended to apply prospectively only. Moreover, [in order to allow the Congress time to review the matter] GAO will not question such continued use of vehicles to transport heads of non-cabinet agencies and the respective seconds-in-command of both cabinet and non-cabinet agencies until the close of this Congress."

GAO considers the Chairman to be an agency head. Therefore, there is no need to institute recoupment action against the Chairman prior to the close of the current Congress. However, this "moratorium" on recoupment for agency heads and their respective principal deputies does not mean that the GAO believes such transportation is proper under the present law.

AUGMENTATION OF MSPB's APPROPRIATIONS

During a March 23-25, 1982, business trip to MSPB's New York Regional Office the Chairman, as part of his official duties, delivered a speech on March 24, 1982, a Wednesday morning, before a group of New York Life Insurance Company executives. New York Life Insurance Company paid the Chairman's lodging costs of \$310.25 for March 23 and 24. The Chairman did not receive any additional monies. Generally, donations from private sources, either in cash or in kind, for official travel to conduct government business constitutes an augmentation, unless the employing agency has statutory authority to accept gifts. MSPB does not have that authority. We concluded that the payment by the New York Life Insurance Company was an improper augmentation of MSPB's appropriations.

Specifically, the MSPB's appropriations were augmented by the amount that the agency was obligated to pay for the Chairman's March 23 and 24, 1982, expenses. For these days the government was authorized to pay for the Chairman's actual subsistence expenses while in New York, including meals and lodging costs, not to exceed \$75 per day. For the two days the Chairman claimed and was reimbursed \$25 in meal expenses, but claimed nothing for lodgings. Since the MSPB must pay for the official travel of its Chairman, these hotel costs should not have been paid by the New York Life Insurance Company and their paying the hotel bill had the effect of augmenting MSPB's appropriation by the amount the

Chairman could have claimed as reimbursement or \$125 [(2 x \$75) - \$25]. However, on April 24, 1984, the Chairman sent a check for \$310.25 to the New York Life Insurance Company with a letter explaining that the company had inadvertently augmented MSPB's budget allocation. Since the Chairman returned the full amount paid by the New York Life Insurance Company, the appropriation augmentation no longer exists and he now can make a claim against the government under 5 U.S.C. 5702, for the actual subsistence expenses totaling \$125. Because of travel expense limitations imposed on travel by federal employees, the Chairman must bear the excess cost of his lodgings in the amount of \$185.25 (\$310.25 - \$125).

We hope that this letter adequately addresses the allegations you received regarding Chairman Ellingwood. The contents of this letter were discussed with Chairman Ellingwood who concurred with these findings.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report for 10 days. At that time we will send copies to the Chairman, MSPB; Director of the Office of Management and Budget, and appropriate congressional committees; and make copies available to others upon request.

Sincerely yours,

Arthur R. Goldbeck for
Frederick D. Wolf
Director

Enclosures - 3

OFFICIAL TRIPS TAKEN BY THE CHAIRMAN AND EXPENSES CLAIMED

<u>Period of travel</u>	<u>Location of business^a</u>	<u>Meals and other expenses</u>	<u>Lodging expenses</u>	<u>Transportation expenses</u>	<u>Total cost to government</u>
2/18/82 - 2/18/82	Phildelphia Regional Office	\$ 17.25	none	\$ 90.00	\$107.25
3/5/82 - 3/7/82	San Francisco and Denver Regional Offices	102.14	none	340.00	442.14
3/23/82 - 3/25/82	New York Regional Office	70.25	none	63.00	133.25
4/23/82 - 5/2/82	San Francisco and Seattle Regional Offices	31.40	none	424.00	455.40
5/18/82 - 5/21/82	St. Louis and Dallas Regional Offices	19.35	75.00	361.00	455.35
6/3/82 - 6/9/82*	Chicago Regional Office (Stopped in San Francisco on personal business before going to Chicago)	7.79	54.50	218.00	280.29 ^b
6/15/82 - 6/15/82	Reston, Virginia to attend agency General Counsel Conference	6.00	none	6.00	12.00
8/8/82 - 8/10/82	Atlanta Regional Office	75.25	69.50	206.00	350.75
9/9/82 - 9/10/82	Boston Regional Office	5.23	69.77	101.00	176.00
12/9/82 - 12/10/82	New York Regional Office	42.63	65.87	80.00	188.50

^a All travel originated in Washington , D.C.

^b Mr. Ellingwood was reimbursed \$280.29 for the Chicago portion of this trip on November 30, 1982. He repaid the whole¹ amount on August 5, 1983, because he believed the trip was more personal than business.

* Honorarium(s) received.

<u>Period of travel</u>	<u>Location of business</u>	<u>Meals and other expenses</u>	<u>Lodging expenses</u>	<u>Transportation expenses</u>	<u>Total cost to government</u>
1/13/83 - 1/18/83*	San Francisco and Chicago Regional Offices	59.40	none	none	59.40 ^c
4/15/83 - 4/18/83	Denver Regional Office	18.30	none	249.00	267.30
6/15/83 - 6/16/83	Harpers Ferry, West Virginia to attend OPM Conference	19.55	30.45	none	50.00
8/27/83 - 8/30/83*	Chicago Regional Office	38.18	56.73	164.00	258.91
9/10/83 - 9/14/83	San Francisco and Seattle Regional Offices	183.31	53.70	388.00	625.01
9/15/83 - 9/16/83	Philadelphia Regional Office	5.25	none	118.00	123.25
12/9/83 - 12/9/83	Boston Regional Office	11.00	none	142.00	153.00
1/7/84 - 1/9/84*	Atlanta Regional Office	25.25	38.88	178.00	242.13
1/25/84 - 1/28/84*	San Francisco Management Planning Seminar and Regional Directors meeting	34.00	none	338.00	372.00

^c On this trip Mr. Ellingwood stated he was on personal business, however, while in the two cities he visited the two regional offices. He claimed expenses associated with the visits. GAO determined that he is eligible to claim the expenses since they were valid expenses and business related.

* Honorarium(s) received.

LISTING OF HONORARIUMS

<u>Date</u>	<u>Location</u>	<u>Honorariums*</u>
May 29, 1982	Deptford, New Jersey	\$ 456
June 3, 1982	Sacramento, California	950**
June 6, 1982	Sacramento, California	500**
June 20, 1982	Roswell, New Mexico	1,500
October 13, 1982	Roseville, California	126
October 22, 1982	Northridge, California	451
December 3, 1982	Tulsa, Oklahoma	300
December 31, 1982	Laguna Hills, California	496
December 31, 1982	Laguna Hills, California	200
January 8, 1983	Naples, Florida	200
January 13, 1983	Turlock, California	500**
January 17, 1983	Fridley, Minnesota	502**
January 29, 1983	Houston, Texas	427
January 29, 1983	Seabrook, Texas	300
March 25, 1983	Missoula, Montana	200
April 10, 1983	Lanham, Maryland	25
June 5, 1983	Sacramento, California	1,000
July 3, 1983	Tulsa, Oklahoma	500
July 10, 1983	Honolulu, Hawaii	546
August 27, 1983	Fort Worth, Texas	1,000**
November 3, 1983	Naples, Florida	21
November 16, 1983	Los Gatos, California	436
December 2, 1983	Laguna Hills, California	150
December 2, 1983	Laguna Hills, California	200
December 4, 1983	Watsonville, California	100
December 4, 1983	Aptos, California	500
January 8, 1984	Jacksonville, Florida	2,000**
January 23, 1984	Pocomoke, Maryland	250
January 28, 1984	Novato, California	550**
February 11, 1984	Kaohsiung, Taiwan	2,000
Total		<u>\$16,386</u>

* An honorarium is a payment of money or anything of value received by an officer or employee of the federal government, if it is accepted as consideration for an appearance, speech, or article. It does not include payment for or provision of actual travel and subsistence, including transportation accommodations, and meals.

**Honorarium was received while the Chairman was on an official trip. However, the fees were received for weekend speeches or speeches made during a leave of absence.

OCCASIONS WHERE ONLY EXPENSES
WERE PAID BY PRIVATE SOURCES

<u>Date</u>	<u>Location</u>	<u>Lodging and/or transportation expenses</u>
March 19-21, 1982	Los Angeles, California (Joint Chinese University Association of Southern California)	\$ 650
June 19, 1982	Denver, Colorado (FGBMFI)*	650
July 3-9, 1982	Costa Mesa, California (FGBMFI)	500
July 27-28, 1982	Springfield, Missouri (Assemblies of God)	500
October 30- November 18, 1982	Trip to China**	2,600
March 29, 1983	Roswell, New Mexico (FGBMFI)	774
June 2, 1983	Auburn, California Forest Lake Christian School	399
August 17, 1983	Santa Ana, California Trinity Broadcasting Network	586
February 23, 1984	San Jose, Costa Rica Fellowship Foundation	633

* Full Gospel Business Men's Fellowship International

** Mr. Ellingwood represented the FGBMFI while overseas as their International Director.

PATRICIA SCHROEDER, COLO., CHAIRWOMAN

MORRIS E. UDALL, ARIZ.
KATIE HALL, IND.
GERRY SMORSKI, MINN.CHARLES PASHAYAN, JR., CALIF.
FRANK R. WOLF, VA.

U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515

January 29, 1985

TELEPHONE (202) 225-4025

Dr. Tim LaHaye, Executive Committee Chairman
American Coalition for Traditional Values
122 C Street, NW, Suite 800
Washington, DC 20001

Dear Dr. LaHaye:

In a January 28, 1985, article in the Federal Times (copy enclosed), it is stated by members of your organization that Mr. Herbert E. Ellingwood, Chairman of the Merit Systems Protection Board, was instrumental in the creation and operation of a "talent bank" to place Christians in positions throughout the Federal government. The House Civil Service Subcommittee is interested both in the circumstances, extent, and details of Mr. Ellingwood's involvement in this effort, and in the possible violation of the merit system which is implicit in the operations of this talent bank. To assist us with our review of this matter, please respond to the following questions and provide the requested materials:

- 1) According to Mr. Gary Jarmin, former American Coalition for Traditional Values (ACTV) field staff director, the talent bank was Mr. Ellingwood's "brainchild." Do you agree with this statement? Please provide a copy of the proposal and any other documents, letters, or notes pertaining to the establishment of the talent bank. Also, please indicate the people involved and mechanics of setting it up.
- 2) What are the goals of the talent bank?
- 3) What is the source of funding and the budget for the talent bank?
- 4) Who staffs the talent bank and how does it operate?
- 5) According to ACTV literature, "a vigorous attempt will be made to find (through our network) qualified Christians." How, and by whom, will this attempt be made? What is meant by the term "qualified Christians?" Are there certain standards or eligibility requirements necessary to be considered for the talent bank? Please provide information on any such criteria.

Dr. Tim LaHaye, Executive Committee Chairman
American Coalition for Traditional Values
January 29, 1985
Page 2

- 6) According to ACTV literature, the "vigorous attempt" will be made to place the identified individuals in 3,000 appointive office positions and 3,310,000 civil service employment positions. Have specific job positions been identified or targeted for "qualified Christians?" If so, please indicate which positions, or types of positions, have been identified and by whom.
- 7) What is the strategy for placing ACTV's selected individuals in government jobs? Please provide any documents, records, notes or correspondence pertaining to ACTV's plan to place individuals in civil service jobs including political appointments and judgeships.
- 8) Describe in detail Mr. Ellingwood's past and current involvement with the talent bank?
- 9) According to Mr. Curtis Maynard, ACTV's executive director, Mr. Ellingwood advises ACTV of openings in the civil service. How, and to whom, does he do this? How many job openings has Mr. Ellingwood passed on to ACTV? Please provide a list of each job opening, when it was referred by Mr. Ellingwood, whether an ACTV-sponsored individual applied for it, whether an ACTV-sponsored individual was hired for the position, and, if so, the name of the individual placed in the position.
- 10) What involvement has Mr. John Herrington, assistant to the President for Presidential personnel, had with the ACTV talent bank?
- 11) What involvement has James Baker, chief of staff and assistant to the President, had with the ACTV talent bank?
- 12) Identify all government employees who have been involved in any way with the ACTV talent bank. Indicate the individual's name, title, agency, and involvement with the talent bank.
- 13) In total, how many government job openings has ACTV been apprised of? To date, how many positions have been applied for and filled by ACTV-sponsored individuals? Please identify each individual and position.
- 14) How many names has the ACTV talent bank collected?

Dr. Tim LaHaye, Executive Committee Chairman
American Coalition for Traditional Values
January 29, 1985
Page 3

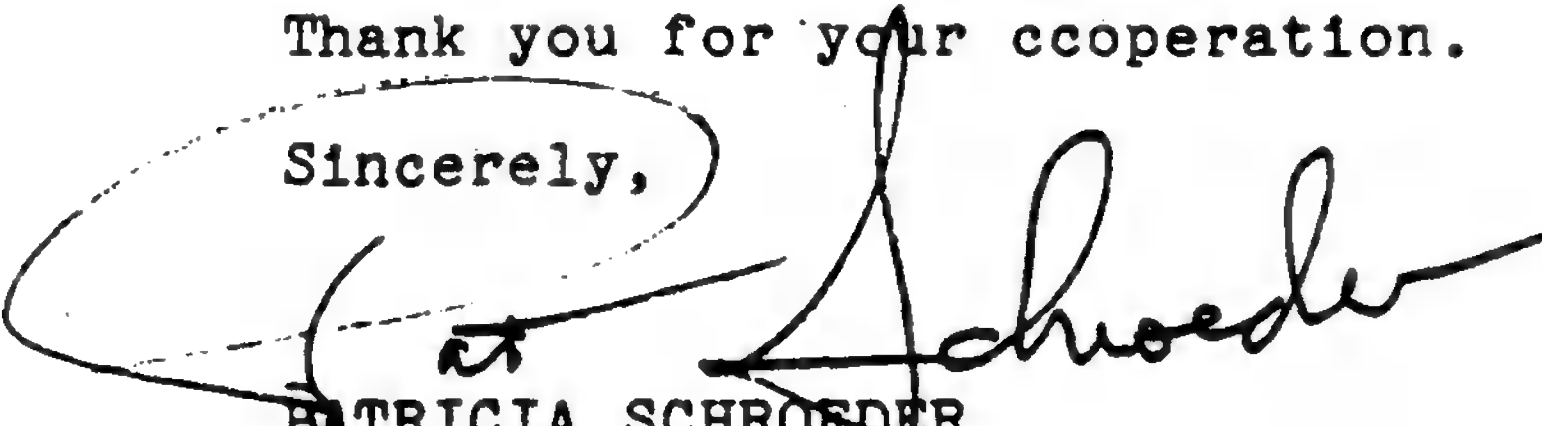
15) According to Mr. Maynard, Mr. Ellingwood advised ACTV-sponsored individuals "the right place to go, he channels them." Describe the process and techniques Mr. Ellingwood uses to channel these individuals.

16) According to ACTV literature, "a minority group of secular humanists [have moved] into the key positions of influence, and they have an inordinate and harmful influence on our culture." Please identify these individuals, their "key positions of influence" and their "inordinate and harmful influence on our culture." Please define the term "secular humanist."

I ask that we receive this material and information by Wednesday, February 13, 1985. If you have any questions concerning this request, please contact Ellen Battistelli at 225-4025.

Thank you for your cooperation.

Sincerely,



PATRICIA SCHROEDER
Chairwoman

Enclosure

PATRICIA SCHROEDER, COLO., CHAIRWOMAN
MORRIS K. UDALL, ARIZ.
KATIE HALL, IND.
GERRY SMORSKI, MINN.
CHARLES PASHAYAN, JR., CALIF.
FRANK R. WOLF, VA.

U.S. House of Representatives
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING
Washington, D.C. 20515

January 29, 1985

TELEPHONE (202) 225-4025

Curtis Maynard, Executive Director
American Coalition for Traditional Values
122 C Street, NW, Suite 800
Washington, DC 20001

Dear Mr. Maynard:

In a January 28, 1985 article in the Federal Times (copy enclosed), you state that Mr. Herbert E. Ellingwood, Chairman of the Merit Systems Protection Board, was instrumental in the creation and operation of a "talent bank" to place Christians in positions throughout the Federal government. The House Civil Service Subcommittee is interested both in the circumstances, extent, and details of Mr. Ellingwood's involvement in this effort, and in the possible violation of the merit system which is implicit in the operations of this talent bank. To assist us with our review of this matter, please respond to the following questions and provide the requested materials:

- 1) According to the Federal Times article, you stated that Mr. Ellingwood approached ACTV leaders "with a proposal to set up a conservative Christian 'talent bank.'" Specifically, how, when and to whom did Mr. Ellingwood initiate this idea for the talent bank? Please elaborate on the formation of the talent bank indicating the people involved and the mechanics of setting it up. Please provide a copy of the proposal and any other documents, letters, or notes pertaining to the establishment of the talent bank.
- 2) What are the goals of the talent bank?
- 3) What is the source of funding and the budget for the talent bank?
- 4) Who staffs the talent bank and how does it operate?
- 5) According to ACTV literature, "a vigorous attempt will be made to find (through our network) qualified Christians." How, and by whom, will this attempt be made? What is meant by the term "qualified Christians?" Are there certain standards or eligibility requirements necessary to be considered for the talent bank? Please describe in detail any such criteria.

Curtis Maynard, Executive Director
American Coalition for Traditional Values
January 29, 1985
Page 2

- 6) According to ACTV literature, the "vigorous attempt" will be made to place the identified individuals in 3,000 appointive office positions and 3,310,000 civil service employment positions. Have specific job positions been identified or targeted for "qualified Christians?" If so, please indicate which positions, or types of positions, have been identified and by whom.
- 7) What is the strategy for placing ACTV's selected individuals in government jobs? Please provide any documents, records, notes or correspondence pertaining to ACTV's plan to place individuals in civil service jobs including political appointments and judgeships.
- 8) Describe in detail Mr. Ellingwood's past and current involvement with the talent bank.
- 9) According to news accounts, you have stated that Mr. Ellingwood advises ACTV of openings in the civil service. How, and to whom, does he do this? How many job openings has Mr. Ellingwood passed on to ACTV? Please provide a list of each job opening, when it was referred by Mr. Ellingwood, whether an ACTV-sponsored individual applied for it, whether an ACTV-sponsored individual was hired for the position, and, if so, the name of the individual placed in the position.
- 10) What involvement has Mr. John Herrington, assistant to the President for Presidential personnel, had with the ACTV talent bank?
- 11) What involvement has James Baker, chief of staff and assistant to the President, had with the ACTV talent bank?
- 12) Identify all government employees who have been involved in any way with the ACTV talent bank. Indicate the individual's name, title, agency, and involvement with the talent bank.
- 13) In total, how many government job openings has ACTV been apprised of? To date, how many positions have been applied for and filled by ACTV-sponsored individuals? Please identify each individual and position.
- 14) How many names has the ACTV talent bank collected?

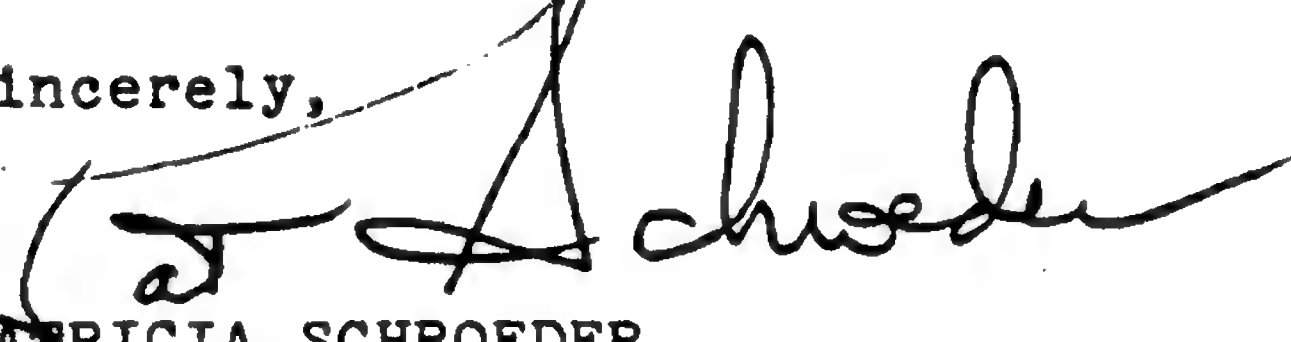
Curtis Maynard, Executive Director
American Coalition for Traditional Values
January 29, 1985
Page 3

15) You are quoted as saying that Mr. Ellingwood advised ACTV-sponsored individuals "the right place to go, he channels them." Describe the process and techniques Mr. Ellingwood uses to channel these individuals.

I ask that we receive this material and information by Wednesday, February 13, 1985. If you have any questions concerning this request, please contact Ellen Battistelli at 225-4025.

Thank you for your cooperation.

Sincerely,



PATRICIA SCHROEDER
Chairwoman

Enclosure

PATRICIA SCHROEDER, COLO., CHAIRWOMAN
MORRIS K. UDALL, ARIZ.
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U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515

January 29, 1985

TELEPHONE (202) 225-4025

Gary Jarmin, Legislative Director
Christian Voice
418 C Street, NE
Washington, DC 20002

Dear Mr. Jarmin:

In a January 28, 1985, article in the Federal Times (copy enclosed), you state that Mr. Herbert E. Ellingwood, Chairman of the Merit Systems Protection Board, was instrumental in the creation and operation of a "talent bank" to place Christians in positions throughout the Federal government. The House Civil Service Subcommittee is interested both in the circumstances, extent, and details of Mr. Ellingwood's involvement in this effort, and in the possible violation of the merit system which is implicit in the operations of this talent bank. To assist us with our review of this matter, please respond to the following questions and provide the requested materials:

- 1) According to the Federal Times article, you stated that the talent bank was Mr. Ellingwood's "brainchild." Specifically, how, when and to whom did Mr. Ellingwood initiate this idea for the talent bank? Please elaborate on the formation of the talent bank indicating the people involved and the mechanics of setting it up. Please provide a copy of the proposal and all other documents, letters, or notes pertaining to the establishment of the talent bank.
- 2) What are the goals of the talent bank?
- 3) What is the source of funding and the budget for the talent bank?
- 4) Who staffs the talent bank and how does it operate?
- 5) According to American Coalition for Traditional Values (ACTV) literature, "a vigorous attempt will be made to find (through our network) qualified Christians." How, and by whom, will this attempt be made? What is meant by the term "qualified Christians?" Are there certain standards or eligibility requirements necessary to be considered for the talent bank? Please describe in detail any such criteria.

Gary Jarmin, Legislative Director
Christian Voice
January 29, 1985
Page 2

6) According to ACTV literature, the "vigorous attempt" will be made to place the identified individuals in 3,000 appointive office positions and 3,310,000 civil service employment positions. Have specific job positions been identified or targeted for "qualified Christians?" If so, please indicate which positions, or types of positions, have been identified and by whom.

7) What is the strategy for placing ACTV's selected individuals in government jobs? Please provide any documents, records, notes or correspondence pertaining to ACTV's plan to place individuals in civil service jobs including political appointments and judgeships.

8) What is Mr. Ellingwood's past and current involvement with the talent bank?

9) According to news accounts, Mr. Curtis Maynard, ACTV's executive director, stated that Mr. Ellingwood advises ACTV of openings in the civil service. How, and to whom, does he do this? How many job openings has Mr. Ellingwood passed on to ACTV? Please provide a list of each job opening, when it was referred by Mr. Ellingwood, whether an ACTV-sponsored individual applied for it, whether an ACTV-sponsored individual was hired for the position, and the name of the individual placed in the position.

10) What involvement has Mr. John Herrington, assistant to the President for Presidential personnel, had with the ACTV talent bank?

11) What involvement has James Baker, chief of staff and assistant to the President, had with the ACTV talent bank?

12) Identify all government employees who have been involved in any way with the ACTV talent bank. Indicate the individual's name, title, agency, and involvement with the talent bank.

13) In total, how many government job openings has ACTV been apprised of? To date, how many positions have been applied for and filled by ACTV-sponsored individuals? Please identify each individual and position.

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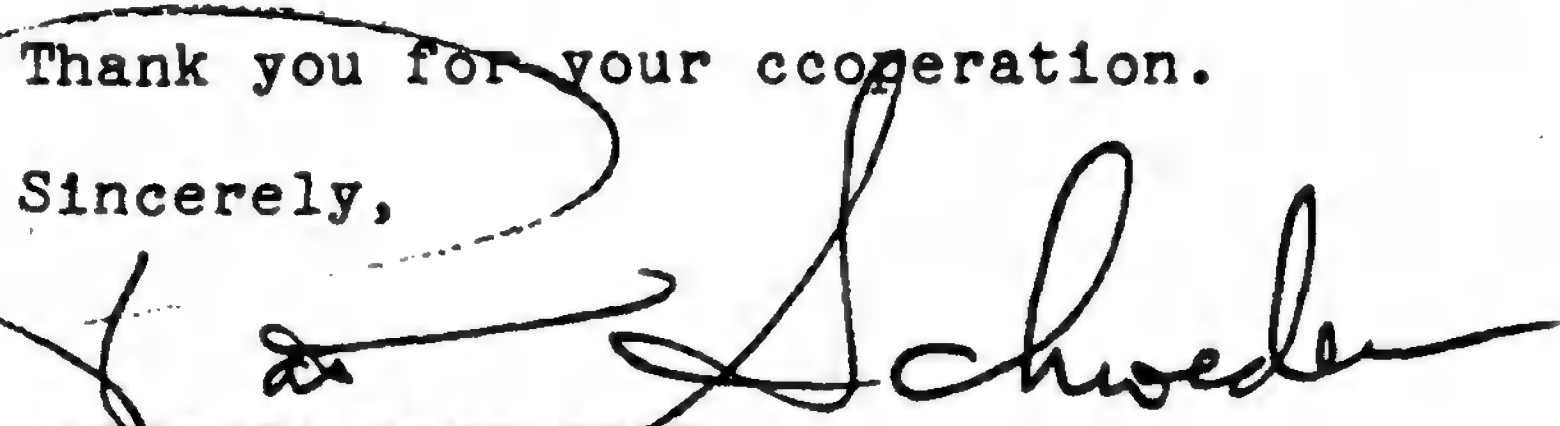
Gary Jarmin, Legislative Director .
Christian Voice
January 29, 1985
Page 3

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I ask that we receive this material and information by Wednesday, February 13, 1985. If you have any questions concerning this request, please contact Ellen Battistelli at 225-4025.

Thank you for your cooperation.

Sincerely,



PATRICIA SCHROEDER
Chairwoman

Enclosure

PATRICIA SCHROEDER, COLO., CHAIRWOMAN

MORRIS E. UDALL, ARIZ.
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U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515

TELEPHONE (202) 225-4025

January 29, 1985

Honorable Herbert E. Ellingwood
Chairman
U.S. Merit Systems Protection Board
1120 Vermont Avenue, NW
Washington, DC 20419

Dear Mr. Ellingwood:

In a January 28, 1985 article in the Federal Times (copy enclosed), you are described as instrumental in the creation and operation of a "talent bank" to place Christians in positions throughout the Federal government. The House Civil Service Subcommittee is interested in the circumstances, extent, and details of your involvement in this effort. Please respond to the following questions and provide the requested materials:

- 1) According to Mr. Gary Jarmin, former ACTV field staff director, the talent bank was your "brainchild." Do you agree with this statement? Please elaborate on the formation of the talent bank indicating the people involved and the mechanics of setting it up. Please provide a copy of the proposal and all other documents, letters, or notes pertaining to the establishment of a talent bank.
- 2) What is the purpose of the talent bank? What are its goals?
- 3) Describe in detail your past and current involvement with the talent bank?
- 4) According to Mr. Curtis Maynard, ACTV's executive director, you advise ACTV of openings in the civil service. How, and to whom, do you do this? How many job openings have you passed on to ACTV? Please provide a list of each job opening, when you referred it, whether an ACTV-sponsored individual applied for the position, whether an ACTV-sponsored individual was hired for the position, and the name of the individual placed in the position.
- 5) Identify all government employees whom you know to be involved, either currently or formerly, in any way with the ACTV talent bank. Indicate the individual's name, title, agency, and involvement with the talent bank.

Honorable Herbert E. Ellingwood
Chairman
U.S. Merit Systems Protection Board
January 29, 1985
Page 2

- 6) According to Mr. Maynard, you advise ACTV-sponsored individuals "the right place to go" and "channel" them. Describe the process and techniques you use to channel these individuals.
- 7) In addition to ACTV, please identify any other groups or individuals whom you advise or assist with obtaining government jobs.
- 8) What is the source of funding and the budget for the talent bank?
- 9) Who staffs the talent bank and how does it operate?
- 10) According to ACTV literature, "a vigorous attempt will be made to find (through our network) qualified Christians." How, and by whom, will this attempt be made? Have you participated in finding these individuals? What is meant by the term "qualified Christians?" Are there certain standards or eligibility requirements necessary to be considered for the talent bank? What are these criteria?
- 11) According to ACTV literature, the "vigorous attempt" will be made to place the identified individuals in appointive and civil service employment positions. Have specific job positions been identified or targeted for "qualified Christians?" If so, please indicate which positions or types of positions, have been identified and by whom.
- 12) What is the strategy for placing ACTV's selected individuals in government jobs? Please provide any documents, records, notes or correspondence pertaining to ACTV's plan to place individuals in civil service jobs including political appointments and judgeships.
- 13) Do you think it is important to place "qualified Christians" in government service? If so, why?
- 14) According to ACTV literature, "a minority group of secular humanists [have moved] into the key positions of influence, and they have an inordinate and harmful influence on our culture." Do you agree with this statement? If so, please identify these individuals, their "key positions of influence" and their "inordinate and harmful influence on our culture." Please define the term "secular humanist."

Honorable Herbert E. Ellingwood
Chairman
U.S. Merit Systems Protection Board
January 29, 1985
Page 3


15) Have you ever addressed an ACTV meeting? If so, please indicate the dates of these events and provide copies of your remarks.

16) Dr. Tim LeHaye, ACTV executive committee chairman, has reportedly stated that ACTV plans to "flood the Federal bureaucracy with Christians." Do you agree with this goal? If so, do you think Christians make better civil servants than those of other religious beliefs? Please elaborate.

17) Do you see your involvement with the ACTV talent bank as interfering with or compromising your position as Chairman of the Merit Systems Protection Board?

I ask that we receive your response to these questions by Wednesday, February 13, 1985. If you have any questions concerning this request, please contact Ellen Battistelli at 225-4025.

Sincerely,



PATRICIA SCHROEDER
Chairwoman

Enclosure

NINETY-EIGHTH CONGRESS

PATRICIA SCHROEDER, COLO., CHAIRWOMAN
MORRIS K. UDALL, ARIZ.
KATIE HALL, IND.
GERRY SIKORSKI, MINN.
CHARLES PASHAYAN, JR., CALIF.
FRANK R. WOLF, VA.

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

U.S. House of Representatives
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515

TELEPHONE (202) 225-4025

January 29, 1985

Mr. James A. Baker III
Chief of Staff & Assistant to the President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Baker:

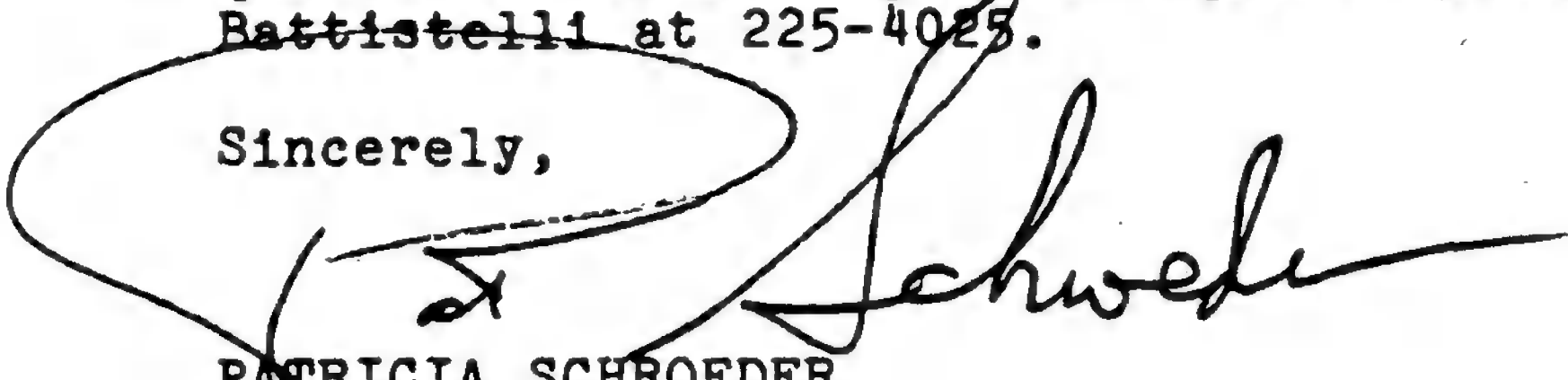
In a January 28, 1985 article in the Federal Times (copy enclosed), you are identified as being in contact with the American Coalition for Traditional Values (ACTV). ACTV claims to have developed a talent bank with the expressed goal of placing Christians in civil service positions throughout the Federal government. The House Civil Service Subcommittee is interested in what assistance, if any, you have provided this group. Please respond to the following questions and provide the requested materials:

- 1) Has ACTV referred to you, directly or indirectly, individuals seeking positions with the Federal government? If so, please identify each individual by name, the position sought, and whether the individual was placed in a government position. Please indicate who referred each individual or resume to you.
- 2) Have you passed on information about job openings to ACTV or ACTV-involved individuals?
- 3) Elaborate on all other contacts you have had with the ACTV talent bank.
- 4) Provide a list of all government employees, including political appointments and judges, whom you understand to be involved in any way with the ACTV talent bank. Indicate the individual's name, title, agency, and involvement with the talent bank.

Mr. James A. Baker III
Chief of Staff & Assistant to the President
The White House
January 29, 1985
Page 2

Please provide your response to these questions to the Subcommittee by Wednesday, February 13, 1985. If you have any questions concerning this request, please contact Ellen Battistelli at 225-4025.

Sincerely,



PATRICIA SCHROEDER
Chairwoman

Enclosure

NINETY-EIGHTH CONGRESS

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DATE 05-30-2007 BY AUC 60324/BAW/STP/clb

U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515

TELEPHONE (202) 225-4025

January 29, 1985

Mr. John S. Herrington
Assistant to the President
for Presidential Personnel
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Herrington:

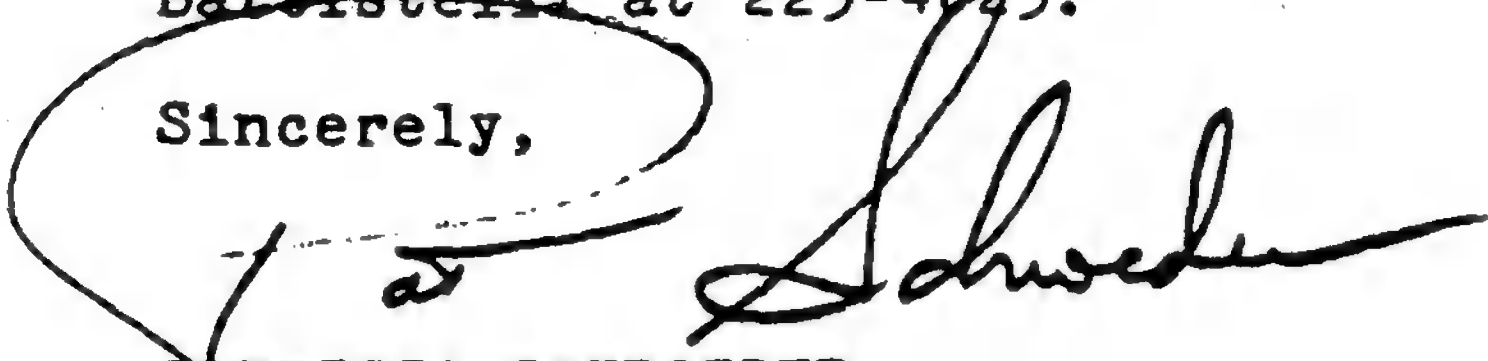
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Mr. John S. Herrington
Assistant to the President
for Presidential Personnel
The White House
January 29, 1985
Page 2

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Sincerely,



PATRICIA SCHROEDER
Chairwoman

Enclosure

ALL INFORMATION CONTAINED
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DATE 10-09-2007 BY AUC 60324/BAW/STP/cld

MSPB Chief Helps Fundamentalists Seeking Fed Jobs

By Larry Cohler
Special to Federal Times

The nation's largest political organization for fundamentalist Christians is taking aim at the federal bureaucracy with a program to "rifle shot" large numbers of conservative, "born again" Christians into government jobs.

The group, the American Coalition for Traditional Values, which organized fundamentalists during last year's presidential campaign, is partly relying in this effort on Herbert Ellingwood, chairman of the Merit Systems Protection Board.

Civil rights lawyers and congressional officials charged with overseeing the integrity of the federal civil service expressed misgivings about the program when informed of it by contacts made for this article.

They worry that Ellingwood's involvement may compromise his position as the chief adjudicator of federal employee protections.

See Ellingwood, Page 12

Ellingwood Participates in Program to Place . . .

From Page 1

All caution, however, that key questions crucial to determining the arrangement's propriety and legality remain unanswered. Still unclear is the extent of ACTV's contacts within the government, as well as the nature of the jobs the group is seeking to fill.

The extent of Ellingwood's role in the employment drive is also the subject of differences among the parties involved. Ellingwood refused repeated requests for an interview but a spokesman downplayed the chairman's role in the ACTV's placement effort.

According to Curtis Maynard, ACTV's executive director, Ellingwood approached the coalition's leaders in 1984 with a proposal to set up a conservative Christian "talent bank."

The coalition is a highly organized national network of about 100,000 fundamentalist churches, Maynard said. Outside observers estimate its strength at about 35,000 churches.

Formed last year, at the start of the presidential campaign, ACTV was the primary group responsible for registering hundreds of thousands of fundamentalist Christians with White House support.

The group includes on its board well-known fundamentalist ministers Jerry Falwell, Jimmy Lee Swaggart, James Robison, and most other politically active fundamentalists of national stature.

At Ellingwood's suggestion, said Maynard, the group has been using its network of



Federal Times/Kate Patterson

**Rep. Patricia Schroeder
... will investigate.**

churches to solicit resumes from attorneys and other professionals who may be interested in federal service.

Then, Maynard explained, "When [Ellingwood learns of] openings in the civil service, he submits them to us."

According to the ACTV executive director, "Ellingwood tells [the applicants] the right place to go, he channels them" for the group, which he said is interested in political appointments and federal judgeships as well as civil service openings.

"We feel we represent 25 percent of the [private sector] work force," Maynard said. "It would be nice if we could have that percentage in government. But we figure we're as low as three or four percent."

Maynard estimates that his group has "probably placed about 15 people in the last few

months" since the program started. He declined to say whether these positions were political or career, or at what level they are.

According to Maynard, the group also sends recommendations for political appointments to John Herrington, assistant to the president for personnel, presidential aide James Baker, "and possibly we'll give a copy to [Ellingwood] as well."

The White House declined to comment.

Aides to Ellingwood confirmed his involvement in the arrangement, though they differed on its extent. One spokesman, Lon Anderson, questioned whether Ellingwood actually "submitted" notice of political and civil service vacancies to ACTV.

He said all of the MSPB

er, noting that notices of civil service jobs are already available at any Office of Personnel Management job center. But this is not the case with political vacancies.

In an earlier telephone interview, Ellingwood's administrative assistant, Joyce Keith, said the chairman has worked on the talent bank "as an extracurricular activity. He's serving more or less as an adviser and worked with them in their formulation stages."

Ellingwood, a personal friend of presidential counselor Edwin Meese and an adviser to President Reagan during his term as governor of California, has long had close ties to the religious right.

The MSPB chairman is a regent of the Christian Broadcasting Network University and in 1982 was the first government employee ever to receive an award from the Religious Heritage of America.

Between May 1982, when he took over at MSPB, and February 1984, Ellingwood received more than \$16,000 in honoraria for speaking engagements, most of these before various Christian groups, according to a report from the General Accounting Office. In addition, he is known to hold regular prayer meetings in his office.

Ellingwood last year became entangled in a controversy over his passing along a resume — that of Gretchen Thomas, a long-time friend — to subordinates. MSPB's San Francisco office hired Thomas after a mix-up resulted in the regional director there believing that she was a "must hire."

House civil service subcommittee chairwoman Patricia

Schroeder, D-Colo., called on Ellingwood to resign over that incident.

ACTV's executive committee chairman, Rev. Tim LeHaye, described the talent bank plan as simply an effort to acquaint fundamentalist Christians with the opportunities for government service. He claimed initially that Ellingwood "had nothing to do with [the network]," but later acknowledged the board chairman "gave us his advice to acquaint us with the [government employment] system."

Ellingwood gave the group no help with specific job openings, said LeHaye, who explained ACTV hoped to increase the conservative Christian presence in government simply by encouraging increased numbers of fundamentalists to apply.

But Gary Jarmin, former ACTV field staff director, said the talent bank was Ellingwood's "brainchild," adding, "he's been involved from the beginning."

Said Jarmin of the program: "We try to compile qualified evangelicals who want to serve in government, especially for political appointive positions, to see if we could rifle-shot them in with a recommendation when an opening comes up."

Anderson acknowledged that Ellingwood "receives many resumes in his position, some from ACTV, as do many others throughout the government. But he's never hired anyone at the board on the strength of a recommendation

... Fundamentalists in Government Positions

From Preceding Page

from that group."

But Anderson was unsure if Ellingwood had in fact hired anyone who had come to his office through the ACTV network.

As for channeling the resumes elsewhere, Anderson said, "Whenever he gets a resume with strong qualifications, he may forward it to the appropriate manager. But never with a recommendation. So any conception this group has somehow got him placing people in government is absolutely incorrect."

In a follow-up conversation, Anderson specified that Ellingwood only forwarded ACTV resumes to managers within MSPB.

Asked if Ellingwood lobbied White House contacts for political appointments on behalf of applicants coming to him through ACTV, Anderson replied, "I don't believe so, because he's very cognizant of his role as an adjudicator here and I can't imagine him using his influence at the White House to compromise that."

But when asked if Ellingwood might put in a word for such ACTV candidates, Maynard, the group's executive director, replied positively.

Asked if the resume network his group drew upon included any synagogues or secular institutions, Maynard replied, "They're not in our talent bank. We want conservatives."

"We want to be as broad as possible," he added. "But

people walk together unless they agree on fundamentals?" If you let down and let people in who say, 'I've looked at your ten moral concerns and I agree with four of them,' that's not good enough for us."

Among the group's declared "ten basic concerns" are passage of a constitutional amendment outlawing abortion, a voluntary school prayer amendment, tuition tax credits for private schools, and opposition to homosexual rights, pornography and the Equal Rights Amendment.

Because many of these issues are related to court decisions, the group is concentrating on recruiting candidates for jobs as government attorneys, said Maynard. Ultimately, he added, ACTV hopes to successfully recommend many for federal judgeships.

Officials of Jewish and civil liberties groups, as well as Schroeder, said the program as described by ACTV may violate both federal civil service and anti-discrimination laws.

Although federal attorney positions are classified as "excepted service" jobs — and thus not filled on the basis of competitive testing — they are covered by the merit system principles outlined in the 1978 Civil Service Reform Act.

Under the act, it is a prohibited personnel practice for any federal official with authority over hiring to discriminate on the basis of religion or to consider employment recommendations based on factors other than job-related abilities.

Complaints about such prac-

tices are heard before MSPB. Appeals of adverse actions against an excepted service employee are also heard before the board if the employee is a veteran.

Thus, whether or not Ellingwood passed the resumes of excepted service applicants on to agencies other than MSPB is a crucial question, according to Schroeder.

"He's the guy who has authority and power over other agencies," Schroeder said. With such influence, she added, "he surely doesn't need to have recommendations accompanying the resumes."

A spokeswoman said Schroeder would start a staff investigation to look particularly at how the resumes offered to Ellingwood by ACTV were handled by the chairman and others.

Schroeder also remarked that current White House plans to greatly increase the number of civil servants hired on temporary status heightened the possibilities for including political and religious factors in hiring decisions. Temporary hires, she noted, are not subject to the stringent competitive requirements and can later be put on permanently, after gaining the required experience.

A number of civil liberties experts said that ACTV might also be violating Title VII of the 1964 Civil Rights Act with its employment project.

If the coalition is soliciting resumes from an exclusively Christian network and feeding them to Ellingwood and other

high officials with Ellingwood's aid, they said, the talent bank may be acting as a religiously exclusive employment agency. That is prohibited by the act.

Jamie Cowen, a staff member of the Senate civil service subcommittee, added that for this reason a religious factor could also be a problem with political appointments, where there is much more latitude in other respects.

"It seems to me it could be functioning in a way that is not unlawful, though offensive," said Barry Lynn, an attorney for the American Civil Liberties Union. According to Lynn, "It depends on whether you can find a collusive arrangement in fact — something leading to a specific result."

Attorney Marc Stern of the American Jewish Congress's commission on law and social action agreed this was "the unanswered factual question."

"If he's merely encouraging the religious to apply, it is a legitimate form of affirmative action. But to the extent that someone has a plus with Ellingwood because he comes from this network, it presents serious problems."

According to Lynn, the problem of "mixed motives" is "frequently the issue — that there's some other reason [for the hiring] in addition to race or religion."

Lynn stressed that proving a Title VII violation requires showing that a hiring took place in which religion was a decisive factor.

"The question is: What does

ACTV think Ellingwood is doing? And how does he see his position? They didn't just go to a phone book and say, 'Hey, what bureaucrat am I sending [the resumes] to?' "Lynn said.

"In a way," said AJC's Stern, "It's almost misleading to focus on the legal aspects." The significant feature of the program, he said, is the "effort to capture the federal government for a narrow segment of the church-going populace."

"I can't think of a similar situation with another ethnic group," Stern mused. "Catholics, Jews and others also try to get into government service, but because it was a good way of making a living... but here the motivation for seeking office is a political agenda."

Asked if Ellingwood was aware of the exclusively fundamentalist Christian nature of ACTV's resume network, spokesman Anderson replied, "that's not Mr. Ellingwood's understanding. He understands it's as the title indicates — Americans of traditional values."

Schroeder expressed concern at Ellingwood's mere solicitation of applicants from the fundamentalist Christian network. "I thought one of the pillars in a democracy is that religion doesn't matter. It's personal," she said.

"There's no mandate for him to reach out and solicit people of a particular viewpoint, to run an affirmative action effort for fundamentalists," she said.

Federal Times Associate Editor Bill Montague contributed to this story.

THE CHAIRMAN



U.S. MERIT SYSTEMS PROTECTION BOARD
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

February 11, 1985

Honorable Patricia Schroeder
Chairwoman
Subcommittee on Civil Service
Committee on Post Office
and Civil Service
U.S. House of Representatives
Washington, D.C. 20515

Dear Madam Chairwoman:

Regarding your letter to me dated January 29, 1985,
enclosed are my responses to your questions.

Sincerely,

Herbert E. Ellingwood
Herbert E. Ellingwood

Enclosure

1. As far as I know there is no talent bank like the article describes. It is my understanding that ACTV does have an advisory service to assist persons seeking jobs in the civil service, but the information they give is the same information any person can obtain from the Office of Personnel Management. This service was not my idea nor do I have any materials pertaining to its establishment; however, on learning of this service, I did suggest to Dr. LaHaye that he include a similar service for those who might be interested in a Presidential appointment. This might be the source of the allegation that this activity was my "brain child." In the beginning the words "talent bank" were used (even by myself) sometimes to refer to the advisory service, but that is an inaccurate description of my suggestion and of what was established. I have recommended individuals to the White House for Presidential appointments, but those are not a part of the civil service.
2. The purpose and goals of the advisory service need to be obtained from ACTV.
3. Although there is no talent bank, I have met with various members of ACTV both before and since that organization was created because they are friends of mine. However, it is not my practice to involve myself in referring people for placement within the civil service.
4. I do not advise ACTV on civil service openings.
5. I do not know of any government employees involved in ACTV's advisory service.
6. I do not advise ACTV on the placement of individuals within the civil service.
7. I do not advise or assist any group or the representatives of any group on the placement of individuals within the civil service. I'm sure that I have advised individuals where to obtain the services of OPM or that they should look at Mike Causey's column.
8. I do not know either the source of funding or the budget of any function of ACTV.
9. Information regarding the staff and the operations of the advisory service need to be obtained from ACTV.

10. I do not know the answers to this question because I am not involved in finding people to apply for civil service positions.
11. I do not know of any civil service positions which have been identified or targeted by ACTV.
12. ACTV's strategy needs to be obtained from ACTV. I have no documents pertaining to that.
13. I think it's important to have competent people with integrity involved in the government regardless of their religious affiliation.
14. I do not have a definition of "secular humanist" and therefore, cannot answer the rest of the question.
15. I did address a meeting of ACTV on July 10, 1984, in D.C. I did not have prepared remarks.
16. I believe government should attract and retain the best qualified employees without regard to religious affiliation.
17. I have no involvement with any talent bank. I am not assisting ACTV or any group with placing people in civil service positions. I may have recommended an individual from time to time if I knew them, but it was not from some group's urging.



American Coalition for Traditional Values

P.O. Box 16000 San Diego, California 92116

EXECUTIVE COMMITTEE

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Colonel V. Doner
James T. Draper
Ronald S. Godwin
E. V. Hill
Richard Hogue
Paul Kienel
Jimmy Swaggart

January 31, 1985

The Honorable Patricia Schroeder
United States Senate
Washington, D. C. 20510

Dear Representative Schroeder:

Thank you for your good letter of January 29 necessitated by the very inaccurate article in the FEDERAL TIMES, which copy you enclosed.

EXECUTIVE BOARD

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In the first place, the author of that article never consulted with me and I am the Chairman and instigator of the American Coalition for Traditional Values (ACTV) and know the facts in the matter better than anyone else quoted. Gary Jarmin was the Director of our field staff and had no relationship to our Government Services Advisory Program, erroneously called "Talent Bank".

Secondly, Curtis Maynard, my Administrative Assistant has never attended an official meeting where this subject was discussed. Consequently, his information, even if he were quoted accurately which he says he was not, could at best be partial or hearsay.

As a public official, I am sure you have been misquoted many times by the media and know how unreliable the press is in portraying anything accurately (I could write a book on this myself).

In the interest of time I shall answer each of your questions briefly and honestly, but let me state at the outset, this is a non-issue that is not worthy of your time or mine. Please consult your letter for the questions you asked so that I do not have to repeat them.

BOARD OF GOVERNORS

Pastor/Leaders of 300 Cities

Page Two
Jan 1985
Hon. Schroeder

1. It is impossible to tell whose "Brain Child" our Government Services Advisory Program really was.

I have known Mr. Ellingwood for many years and have attended meetings with him on many subjects unrelated to the one at hand. As near as I can recollect, the so-called "Talent Bank" idea first came up at a luncheon in Washington over a year ago. While Mr. Ellingwood was present, so were a number of other leaders. Someone suggested the need to bring people into the government who have a deep commitment to the traditional values that have contributed so mightily to the greatness of America. From that suggestion, to which all of us contributed verbally, the Government Services Advisory Program has evolved.

Later I took the matter to my Executive Board where it was further expanded (Mr. Ellingwood, not being a member of the organization of course, was not present).

In those early days it was erroneously referred to as "Talent Bank" which is, of course, easier to remember than the official title of "Government Services Advisory Program", but at no time has it been, in fact, a "Talent Bank". It is, however, an advisory program.

From the very beginning the motivation for the program has been mine as Chairman of the organization because I believe the religious community, as individuals, have a mental block against participation in the duties of government. Consequently, this has left a vacancy in many levels of government service that tends to be filled by people who do not have as deep a commitment to the traditional values which are obviously held by the majority of the American people.

Our nation has overwhelmingly elected a President who made no attempt to hide his well-publicized commitment to traditional values. The ACTV program is merely an attempt to inspire many other Americans who share the President's commitment to these values to consider applying for the many government positions that exist.

2. The goals of the Government Services Advisory Program are clearly delineated in the enclosed brochure.

Page Three
Jan 1985
Hon. Schroeder

Essentially stated, it is our primary goal to change the thinking of the religious community, primarily the Christians we represent, about the importance of their considering government service as a credible vocation.

For example, although there are hundreds of Christian colleges in America who have encouraged young people on a variety of vocations, I know of none that has ever challenged its' graduating seniors to consider government service. I am sure you agree, after your years of government service, that it is a credible and meaningful vocation worthy of any American.

3. The funding of ACTV comes from its' membership.

4. Currently, the Government Service Advisory Program has one full-time employee and occasionally an intern.

5. As you can see by the enclosed brochure, our "vigorous attempts to find qualified Christians" is nothing more than circulating brochures like this to the churches we represent, informing them of the kinds of vocations that are available in the government and urging those who are qualified to apply. What we mean by "qualified" is academic and vocational qualifications.

6. I would like to see any ACTV literature which states that we are trying to "place the identified individuals in 3000 office positions and 3,310,000 Civil Service employment positions." It would be a neat trick if we could do it but I am the Chairman of the organization and I don't have the foggiest idea of what is meant by such a statement or how to go about it. The types of positions we are calling to the attention of the Christian community to apply for are listed in the enclosed brochure.

7. The strategy for placing individuals is merely that of calling attention to any vacancies which occur that are published in the FEDERAL REGISTER or the press. The initiative for making application must, of necessity, be that of the private citizen. By no stretch of the imagination do we function as an employment agency.

Page Four
Jan 1985
Hon. Schroeder

8. Mr. Ellingwood's relationship with our organization has been covered in the introduction and in answer to question #1. For the record, I do not personally know one person Mr. Ellingwood has been instrumental in placing in the Federal Government.

9. To my knowledge, Mr. Ellingwood has never advised anyone in this organization of any openings in government that was not already advertised in the public press or the FEDERAL REGISTER.

10. Mr. John Harrington has had absolutely no relationship to ACTV and to my recollection, I have never met him personally.

11. Likewise, James Baker has had no relationship whatsoever with ACTV's advisory service.

12. Since there is no active "Talent Bank", it is obvious that no government officials have been involved with it.

13. ACTV has been apprised of hundreds of government job openings the same way all citizens become informed about them, through the media and the FEDERAL REGISTER. I think you will agree that the front page of the Washington Post has discussed many vacancies in appointive positions during the past two months.

14. The ACTV Advisory Services Program has corresponded with and talked with between 300 and 400 individuals interested in government service, all of whom were left to their own initiative to pursue application for government service.

15. In discussing the quote attributed to him, Mr. Maynard has informed me that it is totally erroneous and that he never made such a statement.

16. You asked, "What is a 'secular humanist'". Essentially, it is any individual who has a man-centered philosophy instead of a God-centered philosophy. This A-God philosophy usually rejects moral absolutes. We believe the secular direction that government and education have taken during the past 25 years is the result of humanistic thinking on the part of individuals who control influential policies. We further believe that qualified individuals who

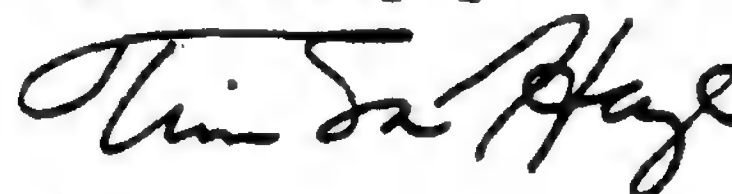
Page Five
Jan 1985
Hon. Schroeder

oppose "secular humanism" permissiveness and hold to Divinely mandated moral absolutes, are more representative of the American people and more in keeping with the traditional values upon which this country was originally founded, than humanistic Judges who favor murdering the unborn, protect pornographers, and follow a lenient path with criminals.. We further feel that it would be in the best interest of America if such traditionally committed individuals would consider applying for all forms of government service.

In conclusion, I think it is appropriate that I address the suggestion in the FEDERAL TIMES which you enclosed regarding "Religious Discrimination". We do not advocate religious discrimination, nor are we for affirmative action based on religious beliefs. All we wish to do is see that when positions in government are vacant, that a sufficient number of individuals committed to traditional values are notified so they can consider making proper application. We do not ask that they be given special consideration. It is obvious, however, that they won't even be considered if they do not know of a positions vacancy and make proper application. Calling this matter to vocationally qualified people whom we represent is neither illegal nor unethical. Such a practice is open to all special interest groups from the ACLU, NOW, Gay Task Force, and unions to religious bodies of all persuasions.

I trust this answers your questions.

Sincerely yours,



Tim LaHaye

Enclosure

sls



American Coalition for Traditional Values

122 C Street, N.W., Suite 800, Washington, D.C. 20001

202/628-2967

EXECUTIVE COMMITTEE

February 4, 1985

Tim LaHaye, Chairman

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Jimmy Swaggart

The Honorable Patricia Schroeder, Chairwoman
U.S. House of Representatives
Sub-Committee on Civil Service
122 Cannon House Office Building
Washington D.C. 20515

Dear Honorable Patricia Schroeder,

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Tom Zimmerman

This is in reply to your letter of January 29, 1985 regarding an article in the Federal Times relative to A.C.T.V's Government Service Advisory Program.

Dr. Tim LaHaye, President of our Coalition is replying to your inquiry precluding any response by me. If you have need of any additional information regarding our programs, please address your inquiry to Dr. Tim LaHaye.

Sincerely,


Curtis Maynard

Government Service Advisory Program

Antoinette M. Olsen
Director

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Minister
Brigadier General H. M. Monroe
U.S. Army, Ret.
Sandra Ostby
American Christian Cause
John Reinhold
Businessman
Jerry Shaw
Political Consultant
Rev. Louis P. Sheldon
Minister
W. Cleon Skousen
Author
Hon. Albert Lee Smith
Rudy Vallee
Entertainer
Rev. Don Wildmon
National Federation For Decency
Rev. Richard Zone
Minister

Christian Voice

February 6, 1985

LEGISLATIVE OFFICE
214 Massachusetts Ave. NE
Suite 120
Washington, D.C. 20002
(202) 544-5202

ADMINISTRATIVE OFFICE
P.O. Box 415
Pacific Grove, California 93950
(408) 375-4772

Honorable Patricia Schroeder
Chairwoman
Subcommittee on Civil Service
122 Cannon H.O.B.
Washington, D.C. 20515

Dear Rep. Schroeder:

This missive is in response to your January 29 inquiry as to statements I made in a Federal Times article about Mr. Herbert Ellingwood and his relationship to the Government Service Advisory Program (GSAP) established by the American Coalition for Traditional Values.

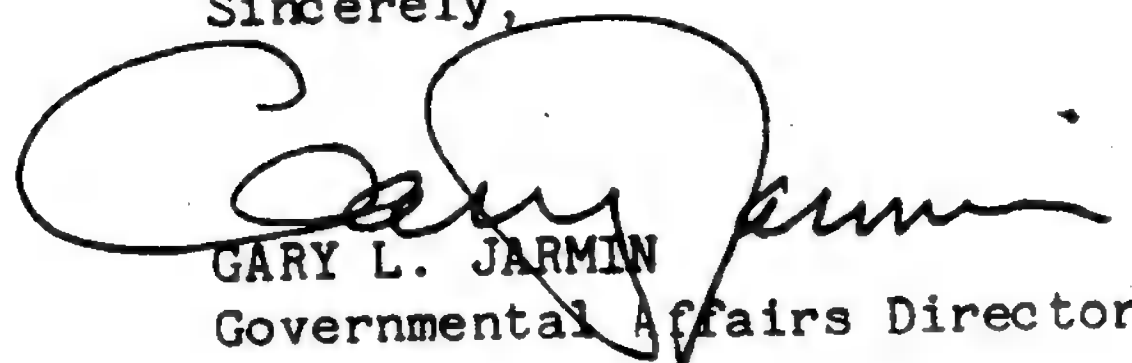
With all due respect, I do not believe that any attempt on my part to respond to your questions could be of any benefit to your inquiry. I say this for three major reasons:

1. At the time I was interviewed by Mr. Larry Cohler, I was serving as National Field Director of the American Coalition for Traditional Values. I no longer work for or represent ACTV, nor do I have any authority to speak for them. Consequently, I believe it would be inappropriate for me to answer any questions regarding the alleged relationship between the ACTV and Mr. Ellingwood. Only Dr. Tim LaHaye, Chairman of ACTV, is in a position of authority to answer these questions and, therefore, I would suggest you direct your inquiries to him.
2. I have no first-hand knowledge or direct experience which would enable me to answer your questions. During my tenure as ACTV's National Field Director, I never had any occasion to be directly involved with ACTV's Government Service Advisory Program (GSAP). The Field Staff's offices were located at 401 C Street N.E. and the GSAP's offices were located at 122 C St. N.W. (both in D.C.). Physically and operationally the field staff and the GSAP were totally separate activities and, consequently, neither had any opportunity, necessity or inclination to interfere in the other's functions. Consequently, I simply cannot respond to your questions because I do not know the answers.

Page two
Hon. Schroeder

3. In light of points one and two, I don't think it would be of any benefit to your inquiry for me to discuss/debate what I said and what I meant as opposed to what Mr. Cöbler wrote (including context, omissions, nuances, etc). As an experienced politician and office holder, I'm sure you can understand the complexities of dealing with the fourth estate.

Sincerely,



GARY L. JARMIN
Governmental Affairs Director

GLJ/cdt

THE WHITE HOUSE

WASHINGTON

January 31, 1985

Dear Pat:

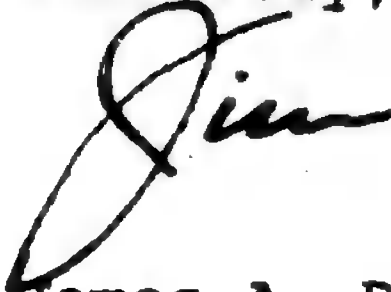
I have your letter of January 29, written in your capacity as Chairwoman of the Committee on Post Office and Civil Service, and enclosing a January 28, 1985 article in the Federal Times.

In this letter you asked me four questions and my answers are as follows:

1. To the best of my knowledge, no such individuals were referred to me directly or indirectly. (If any were referred indirectly, it was without my knowledge of their possible affiliation with ACTV.)
2. Never to ACTV, and never knowingly to any individuals who may have been involved with ACTV.
3. I have had no contact with the ACTV talent bank.
4. I am not aware of any government employees whom I understand to be involved with the ACTV talent bank.

Further, I do not now recall even hearing about the ACTV talent bank before my receipt yesterday of your letter.

Sincerely,



James A. Baker, III
Chief of Staff and
Assistant to the President

The Honorable Patricia Schroeder
Chairwoman
Subcommittee on Civil Service
Committee on Post Office and Civil Service
122 Cannon House Office Building
Washington, D.C. 20515

18 JUL 85 01 31Z

FEDERAL BUREAU
OF INVESTIGATION

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RR HQ

DE AQ

R 172400Z JUL 85

FM ALBUQUERQUE (161B-1229-103) RUC

TO DIRECTOR ROUTINE

BT

~~UNCLAS~~

HERBERT EUGENE ELLINGWOOD; SPIN; BUDED: PAST (JULY 10, 1985)

RE BUREAU TELETYPES, JUNE 19, 1985 AND JULY 3, 1985.

THE ALBUQUERQUE GENERAL AND ELSUR INDICES WERE CHECKED FOR
APPOINTEE AND MEMBERS OF APPOINTEE'S FAMILY WITH NEGATIVE RESULTS
BY THE FOLLOWING SUPPORT PERSONNEL:

ON JUNE 30, 1985, CLERK [REDACTED] GENERAL INDICES;

ON JULY 1, 1985, CLERK [REDACTED] ELSUR INDICES.

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Third Party

NO FURTHER INVESTIGATION BEING CONDUCTED AND NO REPORT
BEING SUBMITTED.

BT

57 APR 1 1986

no destroyed

630

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Director's Sec'y	

General Appoint & Spin Room 5153
TL 233

161-15392-87
NOT RECORDED

17 FEB 27 1986

6 JLE

6306

WFO RECORD CHECK - ROUTING SLIP

5/1/85
FROM: SAC, WFO (161-14852), (A-1), (P)
TO: DIRECTOR, FBI
ROOM: 5161
SPIN UNIT

July 18, 1985

HERBERT EUGENE ELLINGWOOD
SPIN
BUDED: 7/10/85 WITHOUT FAIL

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Third Party

REFERENCED BUREAU TELETYPE TO ALL FBI FIELD OFFICES,
DATED 6/29/85.

IN ACCORDANCE WITH REQUEST CONTAINED IN REFERENCED
TELETYPE THE FOLLOWING IS SUBMITTED:

* INDICES SEARCHED 7/18/85, BY CLERK
CFR SEARCHED 7/18/85, BY CLERK
ELSUR SEARCHED 7/18/85, BY AGENT ~~XXXX~~
ISIS SEARCHED 7/18/85, BY CLERK

NO IDENTIFIABLE RECORD OBTAINED.

* WFO Indices revealed a file identifiable with the
appointee, file contained no derogatory information.

161-15392-88

NOT RECORDED

FEB 27 1986

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57 APR 1 1986

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6306 0824 7-17

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE SAN FRANCISCO	OFFICE OF ORIGIN BUREAU	DATE 7/19/85	INVESTIGATIVE PERIOD 7/11 - 7/17/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY SA [REDACTED]	TYPED BY mas
		CHARACTER OF CASE SPECIAL INQUIRY	

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

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REFERENCE:

Bureau tel of 6/29/85; Bureau airtel; 7/1/85 to San Francisco; San Francisco report to Bureau 7/10/85.

ADMINISTRATIVE:

Referenced San Francisco report is supplemented by instant San Francisco report in view of the fact referenced Bureau airtel contained additional leads.

Where appropriate, Privacy Act (e) (3) data was furnished to persons interviewed. Express promises of confidentiality, both limited and unlimited, have been noted where granted.

San Francisco's indices reflects Appointee was Legal

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN:
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES			
								PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED *[Signature]* SPECIAL AGENT IN CHARGE

COPIES MADE:

② - Bureau *no destroyed*

1 - San Francisco (161B-3605)

DO NOT WRITE IN SPACES BELOW

161-15392-89

NOT RECORDED

17 FEB 27 1986

Dissemination Record of Attached Report					Notations <i>6-JHE</i>
Agency					
Request Recd.					
Date Fwd.					
How Fwd.					
By					

57 APR 1 1986

SF 161B-3605
TJS/mas

ADMINISTRATIVE (CONT.)

Affairs Secretary to then Governor Reagan in January of 1970.
No unfavorable information was noted in the files.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATIONALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

Copy to:

Report of:

Date:

7/19/85

Office: SAN FRANCISCO

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Third Party

Field Office File #: SF 161B-3605

Bureau File #:

Title:

HERBERT EUGENE ELLINGWOOD

Character:

SPECIAL INQUIRY

Synopsis:

Appointee's Juris Doctorate Degrees, Stanford Law School, Stanford, California verified. No professors presently available who would remember the Appointee. Employment at Alameda County, California District Attorney's Office verified. Employment for period of 1945 through 1956 was noted through his official personnel file at the Alameda District Attorney's Office. Employment as instructor Chabot College, Hayward, California verified. California State Bar records reflect Appointee a member in good standing. Appointee's membership in Oakland Chamber of Commerce verified. Membership in California Junior Statesman of America not verified inasmuch as Palo Alto Organization not listed in current telephone directory. Appointee known as "Prayer Partner" to S. K. SUNG INC, but not considered an officer or member. No arrest records located on the Appointee or members of his family.

- RUC -

SF 161B-3605

HTC:htc

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Third Party

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EDUCATION

The following investigation was conducted by

IA

AT STANFORD, CALIFORNIA:

Stanford Law School
Stanford, California
1957 - 1960

On July 15, 1985, KRISTIN MISCAVAGE, Registrar's Office, Stanford University, Stanford, California, furnished the following information concerning HERBERT EUGENE ELLINGWOOD:

HERBERT ELLINGWOOD, date of birth March 5, 1931, matriculated to Stanford Law School in September, 1957. He was awarded an LL.D Degree and graduated on January 8, 1960.

He was registered for the following:

Autumn, Winter, Spring and Summer quarters - 1957-1958
Autumn, Winter, Spring and Summer quarters - 1958-1959
Autumn quarter - 1959-1960

Stanford University does not compute a Grade Point Average nor rank in class. There are no Professors presently available who would remember ELLINGWOOD. Ms. MISCAVAGE could furnish no further information.

~~X~~
SF 161B-3605
EA/ea

EMPLOYMENT

The following investigation was conducted by
IA [REDACTED]
AT OAKLAND, CALIFORNIA

On July 16, 1985, a review of HERBERT E. ELLINGWOOD's Official Personnel File (OPF) as made available by Mrs. WOOD, Administrative Services Assistant, Alameda County, District Attorney's Office, Oakland, revealed the following information:

HERBERT E. ELLINGWOOD began working for the District Attorney's Office on April 19, 1960 as a Law Clerk part-time. On June 22, 1960, ELLINGWOOD was admitted into practice as a Deputy District Attorney. On November 1, 1966, he left the District Attorney's Office to work as a Legislative Representative for the State Bar of California. ELLINGWOOD's file contained letters of commendation and no derogatory remarks.

The following prior employments were verified through Appointee's OPF:

1945 - 1949 Yard Worker, Ellingwood Hay and Lumber Third Party
Company, Watsonville, California.
1950 - 1951 Truck Driver, " " " "
1952 - 1953 Office Manager, " " " "
9/53 - 12/56 Private to First Lieutenant, United States
Army.

On July 17, 1985, IA [REDACTED] was unable to verify ELLINGWOOD's membership with the Oakland Junior Chamber of Commerce. There is no listing for the Oakland Junior Chamber of Commerce in the Oakland Telephone Directory. A letter was located in ELLINGWOOD's personnel file at the Alameda County District Attorney's Office dated February 16, 1967 from an ALFRED R. BUCHER, President of the Oakland Junior Chamber of Commerce, 1320 Webster Street, Oakland, stating that ELLINGWOOD was being considered for Selection for the Junior Chamber of Commerce Outstanding Man of the Year Award. Mr. BUCHER was

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SF 161B-3605

was telephonically contacted and he advised that ELLINGWOOD was a member of the Oakland Junior Chamber of Commerce for several years and to his knowledge the Oakland Junior Chamber of Commerce disband several years ago. Mr. BUCHER also stated that their records were probably destroyed.

SF 161B-3605
RAP

The following investigation was conducted by SC [REDACTED]
[REDACTED]

AT SAN FRANCISCO, CALIFORNIA

STATE BAR CHECK

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Third Party

On July 12, 1985, JEANINE H. QUINLY, Assistant Supervisor, Membership Records, State Bar of California, 555 Franklin Street, advised that HERBERT EUGENE ELLINGWOOD, Membership #30670, born March 5, 1931, at Ordway, Colorado, was admitted to practice law in California on June 22, 1960. His address was noted as Merit Systems Pro. Board, 1120 Vermont Avenue N.W., #826, Washington, D.C. Bar records further indicated that ELLINGWOOD is an active member in good standing and that there is no public record of any disciplinary action having been taken against him.

~~X~~
SF 161B-3605

[] The following investigation was conducted by IA []

EMPLOYMENT

Instructor
Chabot College
2555 Hesperian Boulevard
Hayward, California
Circa 1965

On July 11, 1985, BARBARA SENTI, Personnel Office, Chabot College, 25555 Hesperian Boulevard, Hayward, California, advised the microfisch records indicate HERBERT EUGENE ELLINGWOOD, SSN 726-09-4567, born March 5, 1931, was Board approved for the 1963-64 academic year as a part-time instructor in police science. He was hired in January, 1964, and resigned in May, 1964. She advised there is no further information available concerning this employment.

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Third Party

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SF 161B-3605

[] The following investigation was conducted by IA []

LAW ENFORCEMENT AGENCIES

AT HAYWARD, CALIFORNIA

On July 11, 1985, Record Clerk GLORIA SANTIAGO, Hayward Police Department, advised the files of this agency contain no record identifiable with HERBERT EUGENE ELLINGWOOD, born March 5, 1931.

AT FREMONT, CALIFORNIA

On July 12, 1985, Record Clerk RUTH BARNES, Fremont Police Department, advised the files of this agency contain no record identifiable with HERBERT EUGENE ELLINGWOOD, born March 5, 1931.

X

MEMBERSHIPS

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Third Party

The following investigation was conducted by
IA [REDACTED]

AT SAN JOSE, CALIFORNIA:

California Junior Statesmen
of America Foundation
480 California Avenue
Palo Alto, California

The current Telephone Directory for Palo Alto, California, checked July 15, 1985, shows no listing for the California Junior Statesmen of America Foundation, at above address.

On July 15, 1985, the Telephone Company Information Operator advised that she has no listing of a California Junior Statesmen of America Foundation, 480 California Avenue, Palo Alto, California.

AT SAN JOSE, CALIFORNIA:

S.K. SUNG, INC.
P.O. Box 24466
San Jose, California 95154

On July 15, 1985, an attempt to contact S.K. SUNG, proved negative as Mr. SUNG was currently not in the office at that time.

On July 16, 1985, Mr. S.K. SUNG was telephonically contacted, and he advised that he has known HERBERT ELLINGWOOD for many years, 11 or 12, since ELLINGWOOD was a lawyer in Sacramento, California. Mr. SUNG explained that his wife is an Evangelist, and this organization is his Ministry. They conduct crusades in Taiwan, Manila; give bibles free of charge to people wherever they go; feed poor and support orphanages in Korea and Taiwan. He stated that this organization is non-profit.

Mr. SUNG advised that HERBERT ELLINGWOOD was never an officer in his Ministry, and never a member of this organization. He considers ELLINGWOOD a "prayer partner" (ELLINGWOOD prays for them) and he also supports this organization financially. He knew of nothing unfavorable regarding ELLINGWOOD.

SF 161B-3605

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Third Party

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CREDIT

The following investigation was conducted by

IA

AT SAN JOSE, CALIFORNIA:

On July 12, 1985, the records of the Credit Bureau, Incorporated (CBI), 6389 San Ignacio Avenue, San Jose, California, were checked for any information identifiable with HERBERT EUGENE ELLINGWOOD, with negative results.

SF 161B-3605
EA/ea

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POLICE RECORDS

Third Party

The following investigation was conducted by

IA [REDACTED]

AT OAKLAND, CALIFORNIA

On July 16, 1985, IA [REDACTED] reviewed the records of the Criminal Oriented Records Production Unified System (CORPUS) at FBI Oakland which includes all Police Departments and Sheriff's Offices in Alameda County, with no identifiable arrest record located for Appointee, HERBERT EUGENE ELLINGWOOD, born March 5, 1931 or Appointee's wife, AUDREY ALICE ELLINGWOOD nee KESLER, born August 19, 1932.

SF 161B-3605

W/HTC:htc

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CRIMINAL

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Third Party

The following investigation was conducted by

1A

AT SAN JOSE, CALIFORNIA:

On July 12, 1985, the records of the Santa Clara County Sheriff's Office, San Jose, California, which cover Stanford, California, were checked for any information identifiable with HERBERT EUGENE ELLINGWOOD with negative results.

DEPARTMENT OF JUSTICE
 FEDERAL BUREAU OF INVESTIGATION
 COMMUNICATION MESSAGE FORM

208

PAGE 1 OF 3

DATE JULY 22, 1985

CLASSIFICATION UNCLAS

PRECEDENCE PRIORITY

#F208PP SC SF WFODE HQ H0208 2040056TYUTP 22224Z JUL 85

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ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

FM DIRECTOR FBI

TO FBI SAN FRANCISCO {161B-3605} PRIORITY

FBI SACRAMENTO {161B-785}{INFO} ROUTINE

FBI WASHINGTON FIELD {161B-14852} {INFO} ROUTINE

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED: PAST.

RETELCALLS, JULY 22, 1985 OF SSA [REDACTED]

SPECIAL INQUIRY UNIT, TO SSA [REDACTED] SAN FRANCISCO,

AND OF SA [REDACTED] SAN FRANCISCO, TO SSA [REDACTED]

ON JULY 2, 1985, ANTHONY T. PODESTA, NATIONAL DIRECTOR,

PEOPLE FOR THE AMERICAN WAY {PFTAW}, 1424 16TH STREET, NORTH-

WEST, WASHINGTON, D. C., WAS INTERVIEWED BY WASHINGTON FIELD

CONCERNING APPOINTEE. AMONG OTHER ALLEGATIONS, PODESTA STATED

THAT IT WAS HIS UNDERSTANDING THAT, IN 1974, APPOINTEE WAS

REJECTED BY THE CALIFORNIA STATE BAR UPON HIS NOMINATION BY

THEN GOVERNOR RONALD REAGAN FOR A STATE APPELLATE JUDGESHIP.

APPROVED BY

TTOJC
EW

DRAFTED BY

EHL:VM

DATE

7/22/85

ROOM

5161

TELE EXT.

4228

RETURN TO [REDACTED]

ROOM 5161

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161-15392-90

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17 FEB 27 1986

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FBI/DOJ

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

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PAGE

CONTINUATION SHEET

~~SECRET~~ PAGE TWO: DE HQ0208 UNCLAS

PODESTA WAS NOT AWARE OF THE REASONS FOR THE REJECTION.

20 SAN FRANCISCO IS DIRECTED TO CONTACT OFFICIALS OF THE
18 CALIFORNIA STATE BAR ASSOCIATION TO TEST THE VALIDITY OF THIS
16 ALLEGATION. THIS CONTACT MUST INCLUDE A CHECK OF APPROPRIATE
14 RECORDS AND, IMPORTANTLY, INTERVIEWS OF HIGH RANKING OFFICIALS
12 OF THE BAR. IF PRESENT BAR OFFICIALS WERE NOT CONNECTED WITH
10 THE ORGANIZATION IN 1974, SAN FRANCISCO MUST ALSO IDENTIFY AND
8 INTERVIEW FORMER OFFICIALS WHO WOULD HAVE BEEN INVOLVED IN THE
6 STATE BAR IN 1974 AND WOULD HAVE KNOWN OF ANY ACTION TAKEN
4 AGAINST THE APPOINTEE.

10 BAR OFFICIALS SHOULD BE ASKED WHETHER THE BAR EVER TOOK
8 SUCH A POSITION AGAINST APPOINTEE, AND, IF SO, THE RATIONALE
6 UNDERLYING THE BAR'S POSITION. THEY SHOULD ALSO BE ASKED
4 ABOUT THE RESULTS OF THE BAR'S ACTIONS.

6 SAN FRANCISCO SHOULD ALSO INQUIRE AS TO THE PROCESS THAT
4 IS FOLLOWED IN A NOMINATION FOR A STATE JUDGESHIP. IF THE
2 STATE BAR DID NOT TAKE A POSITION AGAINST THE APPOINTEE, IT
MUST STILL BE DETERMINED IF, IN FACT, APPOINTEE WAS NOMINATED
FOR A JUDGESHIP AND, IF SO, WHAT WAS THE RESULT OF THE NOMINA-
TION; I.E., WHY HE WAS NOT APPOINTED. (APPOINTEE DOES NOT

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

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PAGE

CONTINUATION SHEET

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PAGE THREE DE HQ 0208 UNCL

LIST A JUDGESHIP IN THE EMPLOYMENT SECTION OF HIS SF-86.} IT
IS POSSIBLE THAT FOLLOW-UP INVESTIGATION BY SACRAMENTO WILL BE
REQUIRED.

THIS INVESTIGATION MUST BE CONDUCTED IMMEDIATELY IN LIGHT
OF THE PAST DEADLINE AND THE IMPORTANCE OF THE POSITION IN
QUESTION. RESULTS SHOULD BE SENT FIRST BY TELETYPE, AND THEN
BY A REPORT FOLLOWING DAPLI REPORTING GUIDELINES. THE REPORT
MUST BE SENT BY EXPRESS MAIL CARRIER. BOTH THE TELETYPE AND
REPORT SHOULD BE MARKED TO THE ATTENTION OF SSA [REDACTED]
ROOM 5161, FBIHQ.

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Third Party

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Airtel

July 23, 1985

Director, FBI

SAC, Washington Field Office (161B-14852)

HERBERT EUGENE ELLINGWOOD
SPECIAL INQUIRY
BUDED: PAST

Re Washington Field Office Report of SA [redacted]
dated July 17, 1985; and Butelcalls of SSA [redacted]
Special Inquiry Unit, to SSA [redacted], WFO,
on July 17, 1985, and July 18, 1985.

At pages 73-74 of the referenced report, an interview of
Anthony T. Podesta, National Director, People for the American Way
(PFIW), 1824 16th Street, Northwest, Washington, D. C., is reported.
Mr. Podesta made several allegations regarding the appointee,
including allegations that the appointee improperly used government
telephones for personal use, that the California State Bar
Association opposed his 1974 nomination to a state judgeship, and
that he is one of the chief advocates for a "Christian Talent Bank"
for prospective federal employees.

The San Francisco Office contacted the State Bar on
July 22, 1985, but was unable to verify or disprove the allegation
that the Bar had opposed Mr. Ellingwood's nomination. The Bar
Association advised that their records are highly confidential and no
release of information will be made without approval of the full
Board of Directors.

Washington Field Office is directed to do the following
by the earliest possible date:

(A) Contact the General Counsel's Office,
and/or other appropriate offices, at the
Merit Systems Protection Board (MSPB) to
determine:

(1) Whether allegations have been
made to MSPB regarding Mr. Ellingwood's
misuse of MSPB telephones;

(2) Whether an investigation was
conducted concerning such allegations by

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Third Party

Exec AD Adm. _____
Exec AD Inv. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Insp. _____
Intell. _____
Lab. _____
Legal Coun. _____
Off. Cong. &
Public Affs. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Telephone Rm. _____
Director's Sec'y _____

MAILED 12

JUL 24 1985

FBI

ENC: VII (6)

[redacted]

TTD/C/RW
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37 APR 1 1986

RETURN TO

[redacted]

ROOM 5161

NOT RECORDED

17 FEB 27 1986

161-15392-91

Airtel from Director, FBI, to SAC, Washington Field Office, RE: HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY, BUDED: PAST.

MSPB, the General Accounting Office (GAO) or other entity, and, if so, what the results of the investigation were; and

(3) Whether MSPB has disciplined or reprimanded Mr. Ellingwood because of misuse of telephones.

(B) If an investigation, in fact, was conducted by GAO, MSPB or other entity, contact the investigating agency, or the investigating component within MSPB, and obtain copies of the investigative report.

(C) Re-interview Anthony T. Podesta to determine the following:

(1) In light of the Bar Association's refusal to release information, can Mr. Podesta provide insight as to means of further exploring and verifying his information that the Bar opposed Mr. Ellingwood's judicial nomination. Specifically, can Mr. Podesta advise the following:

(i) The process used in California for judicial nominations and the role of the Bar Association in that process;

(ii) Names and locating data for individuals who might be able to verify that the Bar opposed Mr. Ellingwood's nomination, particularly those persons who told Mr. Podesta about Mr. Ellingwood's nomination and the Bar's opposition.

(2) Determine whether Mr. Podesta can advise of methods to verify his allegations concerning Mr. Ellingwood's misuse of the MSPB telephones, particularly whether he can identify persons who might be interviewed in that regard.

(D) Washington Field Office should conduct follow-up investigation or set leads, as appropriate, based on information provided by Mr. Podesta.

Airtel from Director, FBI, to SAC, Washington Field Office, RE:
HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY, BUDED: PAST.

(E) Washington Field Office should contact officials of the American Coalition for Traditional Values (ACTV), 122 C Street, Northwest, Suite 300, Washington, D. C. (Several of these officials are identified on page 89 of the referenced report.) Standard SPIN interviews of these persons should be conducted. In addition, they should be questioned regarding the "Christian Talent Bank" and Mr. Ellingwood's possible involvement with that concept. (It is noted that Washington Field Office received a considerable amount of information about the Talent Bank on July 5, 1985, from the Office of Congresswoman Patricia Schroeder.) The following information about the Talent Bank should be obtained:

(1) A description of the nature and purposes of the Talent Bank;

(2) A thorough description of Mr. Ellingwood's role with respect to the Talent Bank; and

(3) Information as to whether the Talent Bank, Mr. Ellingwood or anyone connected to the Talent Bank has attempted to circumvent normal Civil Service procedures in the hiring or appointment of federal employees.

The requested investigation must be conducted immediately in light of the past deadline and the importance of the position in question.

DEPARTMENT OF JUSTICE
 FEDERAL BUREAU OF INVESTIGATION
 COMMUNICATION MESSAGE FORM

PAGE 1 OF 3

DATE JULY 23, 1985

CLASSIFICATION UNCLAS

PRECEDENCE PRIORITY

 ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED

DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

#F117TTP SC SF WFTDE HQ H0117 2041800TYUTP 231728Z JUL 85

FM DIRECTOR FBI

FM

TO FBI SACRAMENTO {161B-785} PRIORITY

TO

FBI SAN FRANCISCO {161B-3605}{INFO} ROUTINE

FBI WASHINGTON FIELD {161B-14852} {INFO} ROUTINE

BT

UNCLAS

ATTENTION: SSA [REDACTED]

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: PAST.

RE BUREAU TELETYPE TO SAN FRANCISCO WITH INFORMATIONAL

COPY TO SACRAMENTO, DATED JULY 22, 1985; AND BUTELCALL OF SSA

[REDACTED], SPECIAL INQUIRY UNIT, TO SSA [REDACTED]

[REDACTED] SACRAMENTO, ON JULY 23, 1985.

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Third Party

REFERENCED TELETYPE ADVISED OF ALLEGATION AGAINST
 APPOINTEE THAT, IN 1974, THE STATE BAR OF CALIFORNIA OPPOSED
 THE NOMINATION OF APPOINTEE TO A POSITION AS A CALIFORNIA STATE
 APPELLATE JUDGE. THE SAN FRANCISCO OFFICE ATTEMPTED TO VERIFY
 THIS INFORMATION THROUGH CONTACT WITH THE STATE BAR ON 7/22/85.

APPROVED BY

TTO/C/EHL

DRAFTED BY

EHL:VM

DATE

7/23/85

ROOM

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RETURN TO [REDACTED]

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CONTINUATION SHEET

PAGE TWO DE HQ 0117 UNCLAS

UNFORTUNATELY, THE STATE BAR ADVISED THAT ITS RECORDS ARE
HIGHLY CONFIDENTIAL AND WOULD NOT CONFIRM OR DENY THE ALLEGA-
TION. AN OFFICIAL OF THE STATE BAR ADVISED, HOWEVER, THAT
RELEVANT INFORMATION COULD BE OBTAINED THROUGH THE GOVERNOR'S
OFFICE IN SACRAMENTO.

SACRAMENTO IS REQUESTED TO CONTACT THE GOVERNOR'S OFFICE,
AND/OR OTHER APPROPRIATE STATE GOVERNMENT OFFICES IN
SACRAMENTO, TO OBTAIN THE FOLLOWING INFORMATION:

A} DESCRIPTION OF THE PROCESS USED IN CALIFORNIA FOR
APPOINTING STATE JUDGES, PARTICULARLY THE ROLE OF THE STATE BAR
IN SUCH PROCESS;

B} A DETERMINATION OF WHETHER THE APPOINTEE HAS EVER BEEN
NOMINATED FOR A STATE JUDGESHIP AND, IF SO, OBTAIN THE FOLLOW-
ING DATA:

{1} DATE OF NOMINATION;

{2} POSITION INVOLVED;

{3} OUTCOME OF NOMINATION (APPOINTEE DOES NOT LIST EMPLOY-
MENT AS A JUDGE ON HIS SF-86); AND

{4} IF KNOWN, ROLE OF STATE BAR IN CONSIDERATION OF NOMINA-
TION.

PAGE

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CONTINUATION SHEET

PAGE THREE DE HQ 0117 UNCLAS

CJ NAMES AND LOCATING DATA OF PERSONS WHO MAY BE
KNOWLEDGEABLE ABOUT APPOINTEE'S NOMINATION TO THE JUDGESHIP
AND ITS CONSIDERATION, PARTICULARLY PERSONS AFFILIATED WITH
THE STATE BAR.

SACRAMENTO SHOULD CONDUCT FOLLOW-UP INVESTIGATION AND SET
APPROPRIATE LEADS IF WARRANTED BY RESPONSE OF THE GOVERNOR'S
OFFICE.

SACRAMENTO MUST ALSO CHECK NEWSPAPER MORGUES TO OBTAIN
INFORMATION CONCERNING POSSIBLE NOMINATION OF APPOINTEE TO
STATE JUDGESHIP.

THIS INVESTIGATION MUST BE CONDUCTED IMMEDIATELY IN LIGHT
OF THE PAST DEADLINE AND THE IMPORTANCE OF THE POSITION
INVOLVED. RESPONSES TO THIS TELETYPE SHOULD BE PROVIDED TO
WASHINGTON FIELD AND SAN FRANCISCO, AS WELL AS TO FBIHQ.

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P 220030Z JUL 85

FM SAN FRANCISCO (161B-3605) (RUC) (SQ. 6)

TO DIRECTOR (PRIORITY)

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ATTENTION: SA [REDACTED] ROOM 5161.

HERBERT EUGENE ELLINGWOOD; SPIN; BUDED: PAST, WOF (B).

RE SAN FRANCISCO TELCALL TO SA [REDACTED] JULY 22, 1985.

FOR THE INFORMATION OF THE BUREAU, ON JULY 22, 1985 WINNIE TONG,
MEMBERSHIP RECORDS, STATE BAR OF CALIFORNIA, 555 FRANKLIN STREET,
ADVISED THAT APPLICANT HAS BEEN A MEMBER SINCE JUNE 22, 1960 AND IS
CURRENTLY ACTIVE, IN GOOD STANDING. BAR RECORDS FURTHER INDICATED
THAT THERE IS NO PUBLIC RECORD OF ANY DISCIPLINARY ACTION TAKEN
AGAINST APPLICANT.

ON JULY 22, 1985, HERBERT ROSENTHAL, GENERAL COUNCIL, STATE BAR
OF CALIFORNIA, #415-561-8332 ADVISED THAT THEIR RECORDS ARE HIGHLY
CONFIDENTIAL AND COULD NOT COMMENT FURTHER. ROSENTHAL STATED THAT
THE FACTS OF APPLICANT'S NOMINATION FOR A STATE JUDGESHIP MUST BE

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

General Applicant & Spin 515
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Third Party

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Approp. Leads sent to SC on 7/23/85 by priority tel. [initials]

PAGE TWO

SF 161B-3605

U N C L A S

OBTAINED PRIOR TO ANY RELEASE FROM THE STATE BAR CONCERNING THEIR RECOMMENDATION. ROSENTHAL ADVISED THAT INFORMATION CONCERNING THIS TYPE OF NOMINATION CAN BE OBTAINED THROUGH THE GOVERNOR'S OFFICE IN SACRAMENTO, CALIFORNIA.

ONCE THE FACTS DETERMINE THAT THE APPLICANT WAS NOMINATED, THEN APPROPRIATE PROCEDURES WILL BE FOLLOWED. ROSENTHAL STATED THAT A MEETING OF THE BOARD OF DIRECTORS WILL BE NECESSARY TO DISCUSS THE RELEASE OF ANY INFORMATION CONCERNING THE STATE BAR RECOMMENDATION.

SAN FRANCISCO REQUESTS THAT THE BUREAU DETERMINE THE POSITION AND YEAR OF THE NOMINATION EITHER BY CONTACTING THE GOVERNOR'S OFFICE IN SACRAMENTO, CALIFORNIA, OR BY CHECKING NEWSPAPER MORGUES IN THE SACRAMENTO AREA.

UPON REQUEST OF POSITIVE INFORMATION, SAN FRANCISCO WILL RE-CONTACT THE STATE BAR FOR APPROPRIATE HANDLING.

UACB, NO FURTHER INVESTIGATION WILL BE CONDUCTED BY SAN FRANCISCO DIVISION.

BT

*Is Sacramento checking
for any other records?
see note P. 1.
EAL*

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 1 OF 5

DATE JULY 24, 1985

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DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

FM DIRECTOR FBI

TO FBI SACRAMENTO {161B-785} PRIORITY

ATTN: SSA [REDACTED]

FBI SAN FRANCISCO {161B-3605} PRIORITY

ATTN: SSA [REDACTED]

FBI WASHINGTON FIELD OFFICE {161B-14852} {INFO} ROUTINE

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Third Party

HERBERT EUGENE ELLINGWOOD, SPECIAL INQUIRY, BUDED:

PAST.

REFERENCE BUTEL TO SAN FRANCISCO, DATED 7/22/85; SAN
FRANCISCO TELETYPE TO FBIHQ, DATED 7/22/85; BUTEL TO
SACRAMENTO, DATED 7/23/85; AND BUTELCALLS ON 7/24/85 OF SSA
[REDACTED] SPIN UNIT, TO SSA [REDACTED] SAN
FRANCISCO, AND SSA [REDACTED] SACRAMENTO.

REFERENCED TELETYPES CONCERN AN ALLEGATION THAT IN
1974, MR. ELLINGWOOD WAS OPPOSED BY THE STATE BAR OF

APPROVED BY

DRAFTED BY

DATE

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FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

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CONTINUATION SHEET

PAGE TWO DE HQ 0277 UNCL

CALIFORNIA IN HIS NOMINATION FOR A STATE APPELLATE JUDGESHIP. THE REFERENCED SAN FRANCISCO TELETYPE ADVISED THAT AN ATTEMPT TO CONFIRM THIS ALLEGATION THROUGH CONTACT WITH THE BAR WAS UNSUCCESSFUL IN THAT THE GENERAL COUNSEL OF THE BAR, HERBERT ROSENTHAL, ADVISED THAT THE BAR'S RECORDS ARE HIGHLY CONFIDENTIAL AND THAT WITHOUT SPECIFIC DETAILS CONCERNING THE NOMINATION, AND WITHOUT A MEETING OF THE BAR'S BOARD OF DIRECTORS, NO INFORMATION WILL BE PROVIDED BY THE BAR.

RECENT INVESTIGATION BY WASHINGTON FIELD OFFICE HAS PRODUCED THREE RELEVANT 1974 NEWSPAPER ARTICLES FROM THE SACRAMENTO BEE AND LOS ANGELES TIMES. THE ARTICLES INDICATE THAT THEN-GOVERNOR RONALD REAGAN NOMINATED MR. ELLINGWOOD IN 1974 FOR A JUDGESHIP ON THE THIRD DISTRICT COURT OF APPEALS OF THE STATE OF CALIFORNIA.

THE ARTICLES ALSO INDICATED THAT, IN NOVEMBER 1974, GOVERNOR REAGAN "SENT ELLINGWOOD'S NAME TO THE BOARD OF GOVERNORS OF THE STATE BAR FOR AN EVALUATION" FOR THE POSITION MENTIONED ABOVE. APPARENTLY, THIS WAS UNUSUAL IN THAT REAGAN NORMALLY ASKED FOR OPINIONS FROM THE BAR

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PAGE THREE DE HQ 0277 UNCLAS

REGARDING PROSPECTIVE TRIAL COURT JUDGES, BUT TYPICALLY DID NOT DO SO FOR APPELLATE COURT NOMINEES. ACCORDING TO THE ARTICLES, THIS STEP WAS TAKEN SINCE CONTROVERSY HAD ARISEN OVER THE NOMINATION BECAUSE MR. ELLINGWOOD HAD NOT PREVIOUSLY SERVED AS A TRIAL COURT JUDGE AND PRESUMABLY LACKED SUFFICIENT EXPERIENCE FOR THE POSITION ON THE APPELLATE COURT. ONE OF THE ARTICLES STATED THAT THE SACRAMENTO COUNTY BAR ASSOCIATION OPPOSED THE NOMINATION FOR THIS REASON. THERE IS NO INDICATION IN THE ARTICLES, HOWEVER, AS TO WHAT THE OPINION OF THE STATE BAR EVENTUALLY WAS.

ACCORDING TO THE ARTICLES, GOVERNOR REAGAN WITHDREW MR. ELLINGWOOD'S NOMINATION IN DECEMBER, 1974, IN THE FACE OF THIS CRITICISM. AT THAT TIME, REAGAN WAS ABOUT TO LEAVE OFFICE AND GERRY BROWN WAS ABOUT TO TAKE OVER. THE PAPER STATED THAT ELLINGWOOD'S NOMINATION WAS WITHDRAWN SO THAT A LESS CONTROVERSIAL CANDIDATE COULD BE NAMED, AND CONFIRMED, PRIOR TO THE END OF REAGAN'S TERM.

IN ADDITION TO LEADS SET PREVIOUSLY, SACRAMENTO IS DIRECTED TO CONTACT THE SACRAMENTO COUNTY BAR ASSOCIATION

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TO CONFIRM THE REPORT THAT IT OPPOSED MR. ELLINGWOOD'S
NOMINATION FOR THE ABOVE-STATED REASON. A REVIEW OF
RECORDS AND INTERVIEW{S} OF APPROPRIATE COUNTY BAR
OFFICIAL{S} SHOULD BE DONE. SACRAMENTO MUST ENSURE THAT
THE COUNTY BAR DID NOT HAVE OTHERS REASONS FOR OPPOSING THE
NOMINATION WHICH MIGHT BE RELATED TO THE APPOINTEE'S
CHARACTER AND REPUTATION.

SAN FRANCISCO IS DIRECTED TO RECONTACT HERBERT
ROSENTHAL, OR CONTACT OTHER APPROPRIATE BAR OFFICIAL{S}, TO
OBTAIN THE INFORMATION REQUESTED PREVIOUSLY.

ALTERNATIVELY, IT WILL BE SUFFICIENT IF MR. ROSENTHAL
SIMPLY CONFIRMS THE INFORMATION STATED ABOVE AND ADVISES
THAT THE STATE BAR DID NOT OPPOSE MR. ELLINGWOOD'S
NOMINATION BECAUSE OF DOUBTS AS TO HIS CHARACTER. IN
REAPPROACHING MR. ROSENTHAL, SAN FRANISCO, SHOULD STRESS
THE FOLLOWING:

{1} THE IMPORTANCE OF THE POSITION INVOLVED AND THE
ATTENDANT NEED FOR A THOROUGH BACKGROUND
INVESTIGATION;

{2} THE FACT THAT MR. ELLIGNWOOD HAS PROVIDED A FULL

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RELEASE AND HIS PRIVACY INTERESTS ARE THEREFORE NOT
AT ISSUE;

{3} THE NEED FOR THE INFORMATION QUICKLY BEFORE THE
CONFIRMATION PROCEEDINGS BEGIN;

{4} THE FACT THAT IN 1974 NEWSPAPERS MADE PUBLIC THE
CRITICISMS OF MR. ELLINGWOOD; AND

{5} THE FACT THAT IF THE ISSUE IS NOT FULLY
EXPLORED BY THE FBI BACKGROUND INVESTIGATION, THE
SENATE COMMITTEE MAY APPROACH THE STATE BAR
DIRECTLY FOR THE INFORMATION AND THE CONFIRMATION
PROCEEDINGS COULD THEREBY BE SLOWED UNNECESSARILY.

AGAIN, THE REQUESTED INVESTIGATION MUST BE PERFORMED AS
SOON AS POSSIBLE IN LIGHT OF THE PAST DEADLINE AND THE
IMPORTANCE OF THE POSITION INVOLVED.

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FEDERAL GOVERNMENT

JUL 26 1985

BY COURIER

Hand carried
7-26-85

Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D. C.

Dear Mr. Fielding:

In accordance with a request received from you on June 29, 1985, an update investigation has been conducted concerning Mr. Herbert Eugene Ellingwood. Transmitted herewith are a memorandum and field office reports containing the results of this investigation, copies of which are also being provided to the Department of Justice.

An applicant-type investigation was conducted concerning Mr. Ellingwood in 1981. The results of that investigation have been previously provided to you. The enclosed investigation covers the period since April, 1981.

It is noted that a report was prepared for the United States Court of Appeals for the District of Columbia Circuit in September, 1984, by Jacob A. Stein, Independent Counsel. The report concerns Edwin Meese III; however, it also contains information on pages 24 through 107 concerning Mr. Ellingwood and the hiring of Mrs. Gretchen Thomas. The Stein report is not included in this report because your office already has access to it.

Investigation is complete except for additional inquiries concerning the following issues:

(1) An allegation that Mr. Ellingwood is involved in a "Christian talent bank" which allegedly subverts the Civil Service/merit principles upon which Government employment is based;

(2) An allegation that Mr. Ellingwood improperly used telephones of the Merit Systems Protection Board (MSPB) for numerous international telephone calls of a personal nature; and

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Director's Sec'y _____

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Note next page

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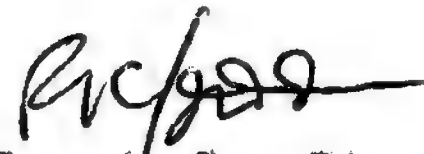
Honorable Fred F. Fielding

(3) A claim that Mr. Ellingwood's nomination for a California state judgeship in 1974 was opposed by state and local bar associations.

Included in the enclosed Washington Field Office report are investigative reports of the General Accounting Office (GAO) and of the House Subcommittee on Civil Service. The GAO report concerns an investigation of allegations that Mr. Ellingwood has acted improperly in several ways as MSPB Chairman. No active FBI investigation has been conducted regarding these allegations in light of the GAO investigation and its findings. The Subcommittee's report concerns the hiring of Mrs. Thomas. There has been no active FBI investigation regarding this matter since the issue has been explored extensively by the Subcommittee and by the Independent Counsel.

When the results of the ongoing inquiries outlined above have been received, you will be advised.

Sincerely yours,



Floyd I. Clarke
Assistant Director
Criminal Investigative Division

Enclosures (8)

1 - Deputy Attorney General
(ATTN: Mr. Jay D. Stephens)

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7-26-85
agw*

Honorable Fred Fielding

NOTE: Mr. Ellingwood is employed by the Merit System Protection Board, Washington, D. C., as Chairman. He is being considered for a Presidential appointment as Assistant Attorney General for the Office of Legal Policy, Department of Justice, which requires Senate confirmation. Investigation is favorable except for a "Driving Under the Influence" arrest for Mr. Ellingwood's brother, Al; and two individuals who expressed concern that Mr. Ellingwood is involved with a group of Christian Fundamentalists and may attempt to appoint people from this group to Government positions and not fairly consider other applicants. One of these individuals also stated Mr. Ellingwood, while Chairman of the Merit System Protection Board, had improperly used a Government vehicle, and had given a position to Gretchen Thomas for which she was not qualified. This individual stated Mrs. Thomas received the position because she was a close friend of Mr. Ellingwood.

Investigation is complete except for the following additional inquiries:

- 1) The "Christian talent bank" and an allegation that Mr. Ellingwood wants to channel fundamentalist Christians to Government positions. This issue resulted from allegations by Anthony T. Podesta and WF T-1, material provided by Congresswoman Schroeder, and an article in the "Washington Post." Investigation will consist of interviews at American Coalition For Traditional Values (ACTV) and reinterview of Mr. Podesta.
- 2) An allegation that Mr. Ellingwood improperly used Government telephones to make personal telephone calls. This allegation will consist of interviews at the Merit System Protection Board (MSPB), a check with the General Counsel at MSPB, and a review of MSPB toll records at General Services Administration (GSA).
- 3) An allegation that Mr. Ellingwood's nomination for a California State Judgeship was opposed by the California State Bar Association. This allegation was made by Mr. Podesta and investigation will consist of checking with the California State Bar Association, interviews of appropriate officials at the California Governor's Office and other State offices, and review of pertinent California newspaper morgues.

Honorable Fred F. Fielding

Report of Independent Counsel Jacob Stein not provided to the White House because Richard Hauser, Deputy Counsel to the President, has indicated that he has access to it.

Copies of previous background investigation provided to the White House on April 30, 1981.

Sent to the White House:

<u>Field Office</u>	<u>Date</u>
Pittsburgh	7-3-85
Richmond	7-8-85
San Francisco	7-10-85
Los Angeles	7-12-85
Indianapolis	7-15-85
Alexandria	7-16-85
Sacramento	7-17-85
Washington Field	7-17-85

of me
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to DOJ (SO)
on 6-25-86 IAB:egw

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JUL 26 1985

HERBERT EUGENE ELLINGWOOD

It is noted that a report was prepared for the United States Court of Appeals for the District of Columbia Circuit in September, 1984, by Jacob A. Stein, Independent Counsel. The report concerns Edwin Meese III; however, it also contains information on pages 24 through 107 concerning Mr. Ellingwood and the hiring of Mrs. Gretchen Thomas (mentioned in the Washington Field Office report).

Agency Checks

Information has been received from the Central Intelligence Agency [REDACTED]

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Central files at FBI Headquarters and in field divisions, files of the Identification Division, and appropriate data bases contain no additional pertinent information concerning Mr. Ellingwood or his close relatives.

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Director's Sec'y _____

MAIL ROOM ☐

161-15392-95

ENCLOSURE



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

JUL 26 1985

HERBERT EUGENE ELLINGWOOD

It is noted that a report was prepared for the United States Court of Appeals for the District of Columbia Circuit in September, 1984, by Jacob A. Stein, Independent Counsel. The report concerns Edwin Meese III; however, it also contains information on pages 24 through 107 concerning Mr. Ellingwood and the hiring of Mrs. Gretchen Thomas (mentioned in the Washington Field Office report).

Agency Checks

Information has been received from the Central Intelligence Agency indicating [REDACTED]
[REDACTED]

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Central files at FBI Headquarters and in field divisions, files of the Identification Division, and appropriate data bases contain no additional pertinent information concerning Mr. Ellingwood or his close relatives.

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Director's Sec'y	

TO DIRECTOR, FBI PRIORITY

FBI, SACRAMENTO PRIORITY

ATTN: SSA [REDACTED] (INFO)

FBI, SAN FRANCISCO (161B-3605) PRIORITY

ATTN: SSA [REDACTED] (INFO)

BT

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HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: PAST.

RE BUTEL TO SACRAMENTO, DATED 7/23/85; BUTEL TO
SAN FRANCISCO, DATED 7/22/85, BU AIRTEL TO WFO DATED 7/22/85,
AND BUTELCALL ON 7/24/85, OF SSA [REDACTED] SPIN UNIT,
TO SF AND SC.

AS A RESULT OF RECENT INVESTIGATION BY WASHINGTON
FIELD OFFICE, INFORMATION HAS BEEN RECEIVED ANONOMOUSLY
SETTING FORTH ALLEGATIONS THAT THE APPOINTEE HAS BEEN
USING THE MERIT SYSTEMS PROTECTION BOARD TELEPHONES TO MAKE

General Applicant & Special Agent
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PERSONAL TELEPHONE CALLS, BOTH INTERNATIONAL AND NATIONALLY.

THE ALLEGATIONS SET FORTH INFORMATION WHICH INDICATES THAT THESE CALLS ARE BEING MADE ON FTS LINES FROM THE APPOINTEES TELEPHONE AT THE MERIT SYSTEMS PROTECTION BOARD. ADDITIONALLY, THE ALLEGATION QUESTIONS THE NEED FOR ANY OVERSEAS CALLS FROM SOMEONE IN THE MERIT SYSTEMS PROTECTION BOARD. A REVIEW OF INVESTIGATIONS DONE TO DATE ON THE APPOINTEE WHILE AT THE MERIT SYSTEMS PROTECTION BOARD HAVE INDICATED THAT THE ABOVE STATED ALLEGATIONS HAVE NOT BEEN LOOKED INTO BY ANY INVESTIGATIVE AGENCY. THE RESULTS OF THE WFO INVESTIGATION LEADING UP TO THE RECEIPT OF THIS ANONYMOUS LETTER IS AS FOLLOWS:

ON 7/23/85, BRUCE MAYOR, ACTING DEPUTY GENERAL COUNSEL FOR THE MERIT SYSTEMS PROTECTION BOARD, WAS INTERVIEWED IN REFERENCE TO HIS KNOWLEDGE CONCERNING THE ABOVE ALLEGATIONS. MAYOR STATED THAT TO THE BEST OF HIS KNOWLEDGE NO ONE IN HIS OFFICE HAD INVESTIGATED THOSE SPECIFIC COMPLAINTS CONCERNING THE APPOINTEE AND HE IS NOT AWARE THAT ANY OF THE OTHER INVESTIGATIVE UNITS WITHIN THE MERIT SYSTEMS PROTECTION

PAGE THREE DE WF #0033 UNCLAS

BOARD HAVE INVESTIGATED THAT SPECIFIC COMPLAINT. MAYOR STATED THAT THE OFFICE OF GENERAL COUNSEL HAS PARTICIPATED IN AT LEAST ONE OTHER INVESTIGATION CONCERNING THE CHAIRMAN (APPOINTEE) DURING WHICH THEY ASSISTED, GAO IN SECURING DOCUMENTS CONCERNING THE APPOINTEE'S TRAVE, THE RECEIPT OF HONORARIUMS WHILE ON GOVERNMENT TRIPS AND THE MISUSE OF GOVERNMENT VEHICLES.

ON 7/23/85, FRANK HAGAN, COMPTROLLER, OFFICE OF THE COMPTROLLER, UNITED STATES MERIT SYSTEMS PROTECTION BOARD (MSPB), WAS INTERVIEWED IN REGARDS TO ANY INVESTIGATIONS THAT WERE CONDUCTED BY HIS OFFICE ON THE APPOINTEE FOR MISUSE OF THE MERIT SYSTEMS PROTECTION BOARD TELEPHONE SYSTEM, EITHER FTS LINES OR COMMERCIAL LINES. HAGAN STATED THAT HE HAS NO KNOWLEDGE OF ANY INVESTIGATIONS THAT WERE EVER CONDUCTED AS A RESULT OF ALLEGATIONS MADE AGAINST THE APPOINTEE FOR MISUSE OF THE FTS AND COMMERCIAL TELEPHONE LINES AT THE MERIT SYSTEMS PROTECTION BOARD. HAGAN FURTHER ADVISED THAT HE HAS NEVER BEEN ASKED TO RETREIVE THE TELEPHONE BILLS FOR EITHER THE COMMERCIAL LINES OR THE FTS LINES TO THE APPOINTEE'S OFFICE. HAGAN STATED THAT HE DID COOPERATE WITH GAO ON AN INVESTIGATION

PAGE FOUR DE WF #0033 UNCLAS

INTO THE APPOINTEE, BUT THAT INVESTIGATION FOCUSED ON TRAVEL AND HONORARIUMS WHICH THE APPOINTEE MAY HAVE RECEIVED WHILE ON GOVERNMENT BUSINESS. HAGAN STATED THAT ON THE OCCASIONS WHICH HE WAS ASKED TO CHECK THE TELEPHONE RECORDS AT THE MERIT SYSTEMS PROTECTION BOARD, NONE OF THE REQUESTED DOCUMENTS WERE FOR ANY OF THE TELEPHONE LINES IN THE APPOINTEE'S OFFICE.

ON 7/23/85, K. WILLIAM O'CONNOR, SPECIAL COUNSEL, OFFICE OF THE SPECIAL COUNSEL OF THE MERIT SYSTEMS PROTECTION BOARD, WAS INTERVIEWED CONCERNING HIS KNOWLEDGE OF ANY INVESTIGATIONS INTO ALLEGATIONS THAT THE APPOINTEE WAS MISUSING THE TELEPHONES AT THE MERIT SYSTEMS PROTECTION BOARD BY MAKING INTERNATIONAL PHONE CALLS AND OTHER NATIONAL PHONE CALLS FOR THE PURPOSE OF CONDUCTING PERSONAL BUSINESS. O'CONNOR STATED THAT HIS OFFICE HAS NEVER RECEIVED ANY ALLEGATIONS CONCERNING THE MISUSE OF THE TELEPHONES FOR PERSONAL BUSINESS AS IT RELATES TO THE APPOINTEE. O'CONNOR ADVISED THAT SINCE THE APPOINTEE HAS BEEN THE CHAIRMAN OF THE MERIT SYSTEMS PROTECTION BOARD, THEY HAVE RECEIVED THREE COMPLAINTS CONCERNING THE APPOINTEE, ONE WHICH LED TO A FULL

PAGE FIVE DE WF #0033 UNCLAS

INVESTIGATION, THE OTHER TWO WHICH WERE DISMISSED AS "LACKING MERIT." THE ONE FULL INVESTIGATION WAS INTO THE ALLEGED ATTEMPTED USE OF INFLUENCE BY THE APPOINTEE TO FORESTALL AN ACTIVE INVESTIGATION BEING CONDUCTED IN SAN FRANCISCO. THE OTHER TWO COMPLAINTS WHICH DID NOT RESULT IN FULL INVESTIGATIONS WERE THE THOMAS INCIDENT AT THE SAN FRANCISCO OFFICE OF THE MERIT SYSTEMS PROTECTION BOARD AND THE CHRISTIAN TALENT BANK WHICH REPORTEDLY HAS BEEN ASSOCIATED WITH THE APPOINTEE. THE LAST TWO COMPLAINTS WERE SELF-INITIATED BY THE OFFICE OF SPECIAL COUNCIL AND DURING THE COURSE OF STAFF EVALUATION DISMISSED AS LACKING MERIT.

ON 7/24/85, MR. CURTIS MAYNARD, ADMINISTRATIVE ASSISTANT TO DR. TIM LA HAYE, AT THE AMERICAN COALITION FOR TRADITIONAL VALUES, WAS INTERVIEWED IN REGARDS TO THE EXTENT OF INVOLVEMENT THAT THE APPOINTEE HAS IN THE "CHRISTIAN TALENT BANK." MAYNARD STATED THAT THE AMERICAN COALITION FOR TRADITIONAL VALUES (ACTV) IS SEEKING TO ORGANIZE THOSE PERSONS WHO ADHERE TO CERTAIN RELIGIOUS PRINCIPLES INTO A POLITICAL FORCE ON THE LOCAL, STATE AND FEDERAL LEVEL. THE ORGANIZATION ALSO SEEKS TO REGISTER THESE CHRISTIAN PEOPLE TO VOTE FOR THOSE PERSONS

PAGE SIX DE WF #0033 UNCLAS

WHO ADHERE TO THE SET OF CHRISTIAN FUNDAMENTALS THAT HAVE BEEN ESTABLISHED BY ACTV. THE ACTV ALSO IS ATTEMPTING TO PLACE PERSONS HOLDING THE SAME BELIEFS AS THEM INTO GOVERNMENT POSITIONS, BOTH ELECTED, APPOINTED AND CAREER. MAYNARD STATED THAT THE DIRECTOR, DR. TIM LA HAYE, HAS ARTICULATED A TARGET LEVEL CALLING FOR APPROXIMATELY TWENTY-FIVE PERCENT OF GOVERNMENT EMPLOYEES TO BE PERSONS IDENTIFYING WITH THE FUNDAMENTALIST CHRISTIAN BELIEFS. THE 25 PERCENT FIGURE IS TAKEN FROM THE APPROXIMATE PERCENTAGE OF THE AMERICAN POPULATION MADE UP OF FUNDAMENTALIST CHRISTIANS. MAYNARD STATED THAT THE APPOINTEE, AS FAR AS HE KNOWS, DOES NOT TAKE AN ACTIVE ROLE IN THIS CAMPAIGN AND IN FACT ONLY SPOKE TO THE FIRST CONVENTION OF ACTV IN 1984. MAYNARD STATED THAT THE APPOINTEE MENTIONED THE "TALENT BANK" CONCEPT AT THAT CONVENTION. MAYNARD STATED THAT DR. LA HAYE HAS A "VISION" OF PUTTING THAT PROPOSAL INTO PRACTICE WITHIN THE GOVERNMENT. MAYNARD STATED THAT THE TALENT BANK IS CORRECTLY CALLED "THE GOVERNMENT SERVICE ADVISORY PROGRAM" WHICH SOLICITS APPLICATIONS FROM PERSONS ADHERING TO 10 FUNDAMENTAL MORAL CONCERNS AS PROPOSED BY ACTV AND ATTEMPTING TO PLACE THEM IN JOBS THROUGH APPOINTMENTS,

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ALL INFORMATION CONTAINED
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DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

TEXT: VZCZCWFO 042

PP HQ SC SF

DE WF 042 2070521

ZNR UUUUU

P 260400Z JUL 85FM SAC, WASHINGTON FIELD (161B-14852) (P) (A-1)

TO DIRECTOR, FBI PRIORITY

FBI, SACRAMENTO PRIORITY

ATTN: SSA [REDACTED]

FBI, SAN FRANCISCO (161B-3605) PRIORITY

ATTN: SSA [REDACTED] (INFO)

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Third Party

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UNCLAS SECTION TWO OF TWO

HERBERT EUGENE ALLENWOOD; SPECIAL INQUIRY; BUDED: PAST.

THROUGH VOTING OR THROUGH CAREER PLACEMENT. MAYNARD

STATED THAT THERE IS NO MASTER LIST KEPT AT THIS TIME,

BUT IN FACT, THE RESUMES OF PERSONS ADHERING TO THOSE MORAL

VALUES ARE KEPT ON FILE AND IF SOMEONE FROM A GOVERNMENT

AGENCY IS SEEKING TO FILL A POSITION AND CONTACTS ACTV, THEY

WILL CHECK THEIR FILES AND RECOMMEND PERSONS WHO THEY BELIEVE HAVE

THE QUALIFICATIONS FOR THAT JOB. MAYNARD STATED THIS CONCEPT HAS

PAGE TWO DE WF #0042 UNCLAS

NOT BEEN SUCCESSFUL DUE TO THE FACT THAT THEY DO NOT HAVE THE PERSONNEL TO MANAGE SUCH A COMPLEX SYSTEM. MAYNARD STATED THAT THE ACTV SEND TO PERSPECTIVE REGISTRANTS COPIES OF OPM BULLETINS AND LISTS OF AVAILABLE JOBS IN THE FEDERAL GOVERNMENT. MAYNARD STATED THAT THOSE LISTS ARE PUBLIC KNOWLEDGE AND THEREFORE THE ACTV FEELS THAT THEY ARE JUST POINTING OUT THE OPEN POSITIONS TO MEMBERS WHO ADHERE TO THEIR TRADITIONAL VALUES. MAYNARD REITERATED THAT THE APPOINTEE, AS FAR AS HE IS CONCERNED, HAS NO INVOLVEMENT IN THE "TALENT BANK" AND MAYNARD IS NOT EVEN SURE IF THE APPOINTEE AGREES WITH DR.

LA HAYE'S POSITION ON THE TWENTY-FIVE PERCENT FIGURE.

ON 7/24/85, ELLEN BATTISTELLI, PROFESSIONAL STAFF MEMBER OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE, SUB COMMITTEE ON CIVIL SERVICE, PROVIDED THE FBI WITH A TYPED COPY OF PART OF AN ANONYMOUS LETTER SUBMITTED TO THAT COMMITTEE ALLEDGING THAT THE APPOINTEE WHILE AT THE MSPB HAS TAKEN TRIPS TO THE FAR EAST AT THE GOVERNMENT'S EXPENSE AND HAS MADE THOUSANDS OF DOLLARS WORTH OF OVERSEAS FTS CALLS IN THE PURSUIT OF HIS PERSONAL BUSINESS. THE COMPLAINT ALLEDGES THAT THERE IS NO NEED FOR THE MSPB TO BE MAKING OVERSEAS CALLS AS THEIR DUTIES OUTSIDE THE UNITED STATES ARE NOT READILY APPARENT.

WASHINGTON FIELD OFFICE WILL FOLLOW UP THE ALLEGATIONS CONCERNING THE TELEPHONE CALLS IN AN ATTEMPT TO PROVE OR DISPROVE THEM.

LEAD: WASHINGTON FIELD OFFICE, AT WASHINGTON, D.C. WILL CONTACT THE MERIT SYSTEMS PROTECTION BOARD, OFFICE OF COMPTROLLER, AND SECURE FROM THAT OFFICE THE TELEPHONE TOLL RECORDS OF CALLS EMANATING FROM THE APPOINTEE'S PHONES AT THE MSPB. WILL ALSO CONTACT GSA TO SECURE

PAGE FOUR DE WF #0042 UNCLA

THE TELEPHONE TOLL RECORDS OF THE FTS CALLS MADE FROM THE
APPOINTEE'S TELEPHONES AT THE MERIT SYSTEMS PROTECTION
BOARD. RESULTS OF THOSE LEADS ARE TO BE RECORDED AND
SUBMITTED TO HEADQUARTERS VERBALLY WITH A REPORT TO FOLLOW.

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FEDERAL BUREAU
OF INVESTIGATION

FM SACRAMENTO (161B-785)(P)✓

TO DIRECTOR PRIORITY

BT

UNCLAS

HERBERT EUGENE ELLINGWOOD; SPIN; BUDED PAST M

RE BUREAU TELETYPE, JULY 26, 1985.

NUMEROUS INTERVIEWS AT CALIFORNIA GOVERNOR'S OFFICE AND
SACRAMENTO, CA. BAR ASSOCIATION HAVE FAILED TO REVEAL ANY
INFORMATION CONCERNING REASON APPOINTEE'S NOMINATION FOR
1974 JUDGESHIP WAS REJECTED. ALL RECORDS HAVE BEEN DESTROYED.

AN INTERVIEW WITH ONE EDWARD LEWIS, WHO IN WQOUR WAS A MEMBER
OF THE SACRAMENTO COUNTY BAR ASSOCIATION, WILL BE CONDUCTED
MONDAY, JULY 29, 1985.

REPORT FOLLOWS.

BT

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Exec AD-Adm.	
Exec AD-Inv.	
Exec AD-LES	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
Ident.	
Insp.	
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Lab.	
Legal Coun.	
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161-15392-97

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE SACRAMENTO	OFFICE OF ORIGIN BUREAU	DATE 7/30/85	INVESTIGATIVE PERIOD 7/27-7/30/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY SA [REDACTED]	TYPED BY wlp
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-30-2007 BY AUC 60324/BAW/STP/cld		CHARACTER OF CASE SPIN	

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Third Party

REFERENCE: Bureau teletype to San Francisco, 7/26/85 and
Sacramento report by SA [REDACTED]
7/17/85.

(-RUC-)

ADMINISTRATIVE:

All persons contacted were advised of the provisions of the Privacy Act. No requests for confidentiality were made. Sacramento general special and ELSUR indices were rechecked and only reference was previous 161B-785 investigation on appointee.

*Copy furnished to DOJ (SO) or 6-25-86 1RB/ogn

ACCOMPLISHMENTS CLAIMED					<input checked="" type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES		

APPROVED [Signature] COPIES MADE: ② Bureau (161-15392) 1- Sacramento (161B-785) 1 copies to White House 8-19-85 8. ENCLOSURE ENCLOSURE ATTACHED	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW 161-15392-98 NOT RECORDED 17 AUG 2 1985
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Dissemination Record of Attached Report				Notations [Signature]
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How Fwd.				
By				

57 APR 1 1986

COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

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DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

Copy to: -

Report of: SA [REDACTED]
Date: July 30, 1985

Office: Sacramento

Field Office File #: SC 161B-785

Bureau File #: 161-15392

Title: HERBERT EUGENE ELLINGWOOD

Character: SPECIAL INQUIRY

Synopsis: JEROME LEWIS, Attorney at Law, stated the reason why appointee's nomination for Appellate judgeship was rejected was because of appointee's inexperience as a trial judge. LEWIS stated he did not question the integrity or character of appointee. Others who were interviewed advised they did not know why appointee's nomination was rejected.

-RUC-

DETAILS:

SC 161B-785
MDT/wlp

On July 25, 1985, CAROL PROSSER, office of the COUNTY BAR ASSOCIATION, Sacramento, California, stated that records regarding the appointee were non-existent because files are destroyed after seven years. She further advised that both she and present staff members were not working in the COUNTY BAR ASSOCIATION office in 1974; therefore, no one would be able to recollect who the appointee was at the time nor the reasoning why the appointee's nomination for an appellate judgeship was rejected.

SC 161B-785
MDT/wlp

1

On July 25, 1985, JOANNE RICHARDSON, Administrative Assistant to Extradition Section, Governor's Office, Sacramento, California, advised she worked in Governor's office at the time the appointee replaced EDWIN MEESE as legal advisor to Governor REAGAN. Mr. MEESE had moved up to the Chief of Staff position. She stated that she remembered the appointee's nomination to the appellate judgeship, but has no knowledge as to the process used in California for appointing state judges, particularly the CALIFORNIA STATE BAR. Therefore, she did not know the facts concerning why the nomination was rejected by the CALIFORNIA STATE BAR.

SC 161B-785

MDT/wlp

On July 30, 1985, JEROME LEWIS, Attorney at Law, 1431 22nd Street, Sacramento, California, advised he was president of the COUNTY BAR ASSOCIATION in 1974, when the appointee's nomination for an Appellate Judge position was rejected. LEWIS stated that the main reason for the appointee's failure to get the judgeship was his inexperience in moving from a California State administrative position to the Appellate Courts as a judge. LEWIS does not question the integrity or the character of the appointee, only the inappropriate timing, due to the appointee's inexperience as a trial judge. According to LEWIS there were others who at the time had more experience as judges and as a result, in his opinion were better qualified.

SC 161B-785

MCN/mcn

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CREDIT

The following investigation was conducted by
IA [REDACTED]

At Sacramento, California

On July 26, 1985, LIZ CRIDGE, Retailers Credit Association, advised appointee has been known to their files since July, 1968, and has an excellent credit rating.

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Third Party

NEWSPAPER MORGUE

The following articles concerning Mr. Ellingwood were obtained from the newspaper file of the SACRAMENTO BEE on August 1, 1985, by IA [REDACTED]

SC 161B-785

MCN/mcn

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CREDIT

IA The following investigation was conducted by

At Sacramento, California

On July 26, 1985, LIZ CRIDGE, Retailers Credit Association, advised appointee has been known to their files since July, 1968, and has an excellent credit rating.

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Third Party

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161-15392-98
ENCLOSURE

Reagan Picks Two Aides, Transfers Another One

Two new aides have been named to Gov. Ronald Reagan's staff, one to oversee legal affairs and the other to handle gubernatorial appointments.

In disclosing he has selected Herbert Ellingwood as his legal affairs secretary and Edward B. (Ned) Hutchinson as appointments secretary, the governor also announced he has released his cabinet secretary to serve as an aide to Lt. Gov. Ed Reinecke.

Winfred W. Adams, 51, who has been Reagan's cabinet secretary for 16 months, will join the Reinecke staff as the lieutenant governor's executive assistant.

Tells of Plans
Reagan, in announcing Adams' new duties to the governor's council yesterday afternoon, said the administration has "some far-reaching plans for cooperation and teaming of the two offices" of governor and lieutenant governor.

Ellingwood, 37, a former deputy district attorney of Alameda County, has been the State Bar's lobbyist in Sacramento since 1966. He will succeed Edwin

Meese III as legal affairs secretary. Meese will step up to the post of executive secretary on Reagan's staff, effective Feb. 1, when the present executive secretary, William Clark, will quit to become a San Luis Obispo County Superior Court judge.

Hutchinson, 38, will succeed

Paul Haerle in the appointments post. Haerle is resigning to return to private law practice in San Francisco. The governor said Haerle had warned him when he joined the staff that he could only serve for a limited time.

Hutchinson has been a special

assistant to the governor, occupied with implementation of Reagan's task force survey on efficiency and cost control in state government.

Reagan said Haerle was leaving and Hutchinson was stepping into "probably the most thankless job" in state government.



Ned Hutchinson



Herbert E. Ellingwood

Ellingwood
Herbert E.

State Bar Names Legislative Agent

The California State Bar has a new legislative representative — Herbert E. Ellingwood, a deputy district attorney in Alameda County. Ellingwood will handle legislation proposed by the State Bar intended to improve the administration of justice in California. A State Bar office will be opened in Suite 675, 425 Capitol Mall Building. Ellingwood attended public schools in Salinas, was graduated in 1953 from Yale University with a major in political science, received a law degree from Stanford in 1960 and was admitted to law practice the same year.

Ellingwood Will Speak At SBOR Prayer Breakfast

MAR 21 1976

Herbert Ellingwood, special assistant state attorney general, will give a talk entitled "God and Politics" Friday during a Sacramento Board of Realtors Prayer Breakfast in the Quality Inn-Woodlake.

The 7:15 a.m. event will be the kickoff meeting for the California Association of Realtors' directors' sessions that day. The statewide association will meet in Sacramento Thursday through Saturday.

Ellingwood began a legal career in 1960 after he was graduated from Stanford University Law School. He was a deputy district attorney for Alameda County for six years. In 1969 he was appointed legal affairs

secretary for then-Gov. Ronald Reagan and remained in that position until his current assignment.

During the prayer breakfast the Fair Oaks Presbyterian Church Youth Choir will present a 10-minute program. The group of high school and college youngsters will be under the direction of Chuck Shillito, a graduate of the University of California at Davis.

Walter Hanson, chairman of the prayer breakfast committee, also announced his committee will offer several other programs during the year at dates to be announced in the near future.

MAR 21 1976



Herbert Ellingwood

Ellingwood Herbert E.

Turner Joins Legal Staff Of Governor

FEB 19 1969

Richard K. Turner, 30, a 1963 graduate of the University of California's Boalt Hall Law School and a member of the state attorney general's staff for six years, is Gov. Ronald Reagan's new assistant legal affairs secretary.

Turner will assist Herbert E. Ellingwood, the man who replaced Edwin Meese III as legal affairs secretary after Meese became Reagan's executive secretary. The job pays a \$17,000 salary.

Turner headed the attorney general's administrative law section since last July.

He studied political science at Stanford University.

While in law school, he won a number of scholastic awards and worked as an editorial assistant for a highly regarded legal program, California Continuing Education of the Bar.

He and his wife, Robin, live

Ellingwood Herbert E.

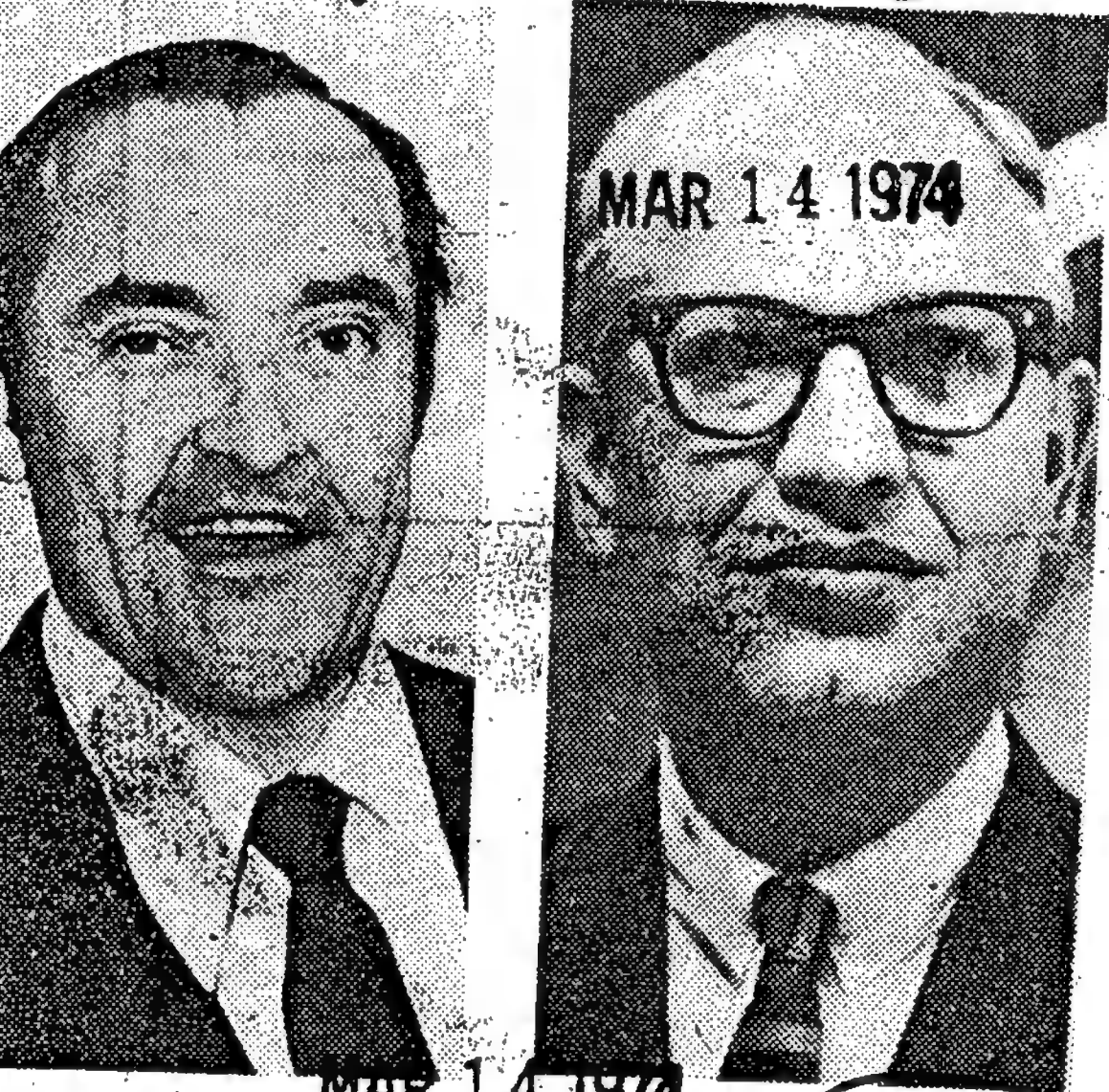
Jr. Statesmen Posts Go To Sacramentans

Four Sacramentans have been elected to official positions in the Junior Statesmen Foundation during the organization's annual dinner meeting in San Francisco.

Herbert E. Ellingwood, legal affairs secretary to Gov. Ronald Reagan, and David Lewis, California Optometric Association staff assistant, were elected vice presidents. Mrs. Anne Rudin, former president of the California League of Women Voters and Richard K. Turner, assistant to the governor's legal affairs secretary, were re-elected to the Board of Trustees.

The organization's fall capital conference is scheduled for Nov. 19-21 in Sacramento. The foundation is a nonpartisan, educational firm designed to prepare high school students for responsible citizenship.

Ellingwood, Herbert E.



Sen. Fred Marler Herbert E. Ellingwood

Two GOP Stalwarts May Get Court Seats

MAR 14 1974
The appointments of two Republican stalwarts to vacant seats on the District Court of Appeal appear to be in the immediate offing.

Possible Controversy
The nomination of Ellingwood could spark some controversy. According to one source, Reagan advisers were divided on the advisability of naming two associate justices with political backgrounds.

Legislative Action
The 1973 legislature passed a measure to add more judgeships in the 23-county 3rd district, which encompasses most of Northern California. The district now has 11 justices.

Marler, GOP floor leader and member of the upper court since 1965, practiced law in Redding prior to his election. Marler is leaving the bench because his previous district was drastically altered in last year's reapportionment.

HERB ELLINGWOOD special assistant to Attorney General Evelle J. Younger, will discuss state propositions on the November ballot following 6 p.m. church services on Sunday in the high school room at the First Assembly of God Church in Roseville.
H NOV 3 1978

Ellingwood, Herbert

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Reagan Secretary Probes Use Of Undercover License Plates

FEB 25 1972
C315 STR FIN
Herbert Ellingwood, Gov. Ronald Reagan's legal affairs secretary, has been instructed to look into state officials' use of undercover license plates on their publicly owned automobiles.

The practice was revealed yesterday in a report from the auditor general. The legislature was told more than 150 top administration appointees and executives are using unmarked autos.

"If any of our practices are inconsistent with provisions of state law, then we intend to take swift corrective action," Ed Gray, associate press secretary, said today. "We are now looking into the matter."

The Vehicle Code restricts use of regular license plates on state cars to law enforcement and parole office use. The law requires most state vehicles to bear tax exempt plates and to be identified as a public vehicle.

However, the auditor general reported, undercover plates have been issued to Reagan aides Edwin Meese, executive assistant, Robert J. Keyes, assistant for community relations, Reagan's cabinet members and dozens of other officials.

Gray said Meese is chairman of the

State Emergency Planning Council, a "law enforcement oriented body," and is on 24-hour call. He had no comment about the other officials.

The Bee reported in error yesterday that 96 officials of the Department of Corrections had unmarked cars. The 96 carry permits authorizing them to operate an unmarked vehicle, said department information officer Phil Guthrie, but there is only one such car, assigned to the director.

Those using undercover plates are required to certify to the attorney general's office that their vehicle "is assigned to the duty of investigating actual or suspected violations of the law, and is intended for the use in line of duty of regularly employed law enforcement officers. . . ."

Ex-Reagan Aide Gets Job At White House

MAR 2 1 1981

See Washington Bureau

WASHINGTON — A Sacramento lawyer who worked for Ronald Reagan when he was California governor was named a deputy counsel to the president Friday.

Herbert E. Ellingwood, 50, is a partner in the Caldwell & Toms legal firm.

A former lobbyist for the California State Bar, Ellingwood served as legal secretary to then-Gov. Reagan from 1969 to 1974. He replaced Edwin Meese in the job after Meese stepped up to become Reagan's top aide.

After he lost a 1974 quest for an appointment to the 3rd District Court of Appeal, Ellingwood became a special assistant to then-Attorney General Evelle Younger.

A graduate of Yale University and Stanford University Law School, Ellingwood was a deputy district attorney in Alameda County before he moved to Sacramento in 1966.

Ellingwood, Herbert

Official urged to quit

JUN 4 1984

WASHINGTON — Rep. Patricia Schroeder, D-Colo., called Sunday for the resignation of the head of the Merit Systems Protection Board, saying he helped get a job for a friend who is now involved in the inquiry surrounding Attorney General-designate Edwin Meese III.

But a spokesman for Protection Board chairman Herbert Ellingwood said he "has no intention of resigning," and had taken no improper action in hiring Gretchen

Thomas as an attorney in the board's San Francisco office.

Schroeder asserted two months ago that Thomas was not qualified for the job. In her letter Sunday, she said the study found someone else "was first offered a job and then rejected in order to create a slot for Mrs. Thomas."

Ellingwood Will Work With Younger

DEC 6 1974

Herbert Ellingwood, legal affairs secretary to Gov. Ronald Reagan, will go to work for Attorney General Evelle Younger after the start of the year.

Ellingwood, who had been a candidate for an opening on the 3rd District Court of Appeal, will become an assistant attorney general. A source who confirmed reports of the job said he does not know what duties will be assigned to Ellingwood.

Last month in an unusual break with his past practices, Reagan sent Ellingwood's name to the Board of Governors of the State Bar for an evaluation as an appellate court justice. In the past, Reagan has sent names of prospective trial court judges to the State Bar but refused to let the Board of Governors consider prospective appellate court nominees.

There was opposition to Elling-

wood from the Sacramento County Bar Association which contended that appellate court judgeships should be reserved for persons with trial court experience.

Reagan has only a month remaining in office and must act soon if his nominee to the 3rd District Court of Appeal is to be confirmed before Gov.-elect Edmund G. Brown Jr. takes over. The time remaining is so short that a controversial nominee probably would not have time to get through hearings by the Commission on Judicial Appointments.

With Ellingwood out of consideration, a name heard frequently in discussions about the appellate court opening is that of Sacramento County Superior Court Judge Joseph DeCristoforo. Originally appointed to the Superior Court by Reagan, DeCristoforo has become a respected judge with attorneys who practice before him, including Democrats.

Ellingwood, Herb

Christian Politician In Washington

OCT 30 1982 F

He Sees Laws As Moral Issues

By Dennis Roberts
Special To The Bee

B1/1

A long, long time ago, in a state not too far away — before Jerry Falwell even knew how to spell incumbent — when the title “Christian politician” was dismissed as a contradiction in terms — and when evangelical Christians thought that political activism was only for worldly liberals...

God created Herb Ellingwood.

As legal affairs secretary for then-Gov. Ronald Reagan, and later as special assistant to attorney generals Evelle Younger and George Deukmejian, Ellingwood bent ears and knees from one end of the semi-golden dome to the other. Prayer breakfasts and Bible studies blossomed, and wherever religion and politics interacted (or occasionally collided), Ellingwood was there like Kilroy.

In those days, Ellingwood and others of this rare species were sometimes criticized for corrupting spiritual things with the political. Now he is heralded as a man of vision, wisdom and — by the way — influence.

Today, he is President Reagan's

newly appointed chairman of the U.S. Merit Systems Protection Board, which investigates grievances filed by federal employees. And he's more convinced than ever that politics and religion do mix.

In fact, the well-known Sacramento attorney thinks Christians have committed a serious error by trying to separate spiritual and moral issues from the political process.

“The issues that come before any legislative body are basically moral issues,” he contends. “Speed laws and tax laws are moral issues. Christians, as well as others, ought to have an opportunity to have their voices heard.”

During a visit to his home territory this month, Ellingwood told audiences at Foothill Community Church in Roseville and Capital Christian Center in Sacramento that Christians have neglected their social and political responsibilities too long.

“In the last 40 or 50 years, the church has not been a political force in our nation,” he told an audience at Foothill Church. “It has had basically no visible impact ... on social policy. Where have you — the

church — been when 13 million babies have been killed by abortion? Where have we been when we've allowed ... hardcore pornography to come even onto our own television sets?

“I think every Christian ought to be involved in politics.”

That requires more than dropping by a voting booth on Nov. 2, he continued. Christians should be willing to spend time promoting candidates and causes they believe in. And when they vote, they need to be well-informed and to call on another source of discernment.

“If you're not praying about your vote, you might be better off not to vote,” he said. Clearly, though, he wants to get Christians to the polls.

The so-called “religious right” is making a lot of politicians nervous these days, but Ellingwood says evangelicals earned their place in the political process.

“The separation of church and state does not mean that certain people shouldn't have a voice in government,” he explained. “I don't think anybody is really saying now that people who are evangelical should not voice their opinions.”

As he did in Sacramento, Ellingwood is carrying his Christian faith wherever he goes in Washington D.C., hosting prayer breakfasts, starting Bible studies and bringing famous Christians like Pat Boone and Charles Colson to the nation's capital for evangelistic services.

“People around Washington say there's never been a better atmosphere for the Gospel,” he contends. “By the same token, people don't walk up to me on the street and say, ‘Tell me about Jesus,’ but they look for him in our lives.”

Ellingwood says he goes into his office building every morning and prays over the desks and typewriters, asking God to mend families and to bless those under his leadership. The result, he says, is that a once-abrasive atmosphere has been replaced by one of cooperation and friendliness.

Most of the influence of the Christian community in D.C. is on the quiet side, he says. For instance, his prayer groups have just designated every Monday as a day of prayer and fasting on behalf of specific people and issues in government, and he is inviting Christians in other



Bee Photo by Michael Williamson

OCT 30 1982
parts of the country to join in.

Similarly, most of Ellingwood's recognition has been on the quiet side. But last week, Religious Heri

‘If you're not praying about your vote, you might be better off not to vote,’ says Herb Ellingwood.

tage of America in Dearborn, Mich., honored him with a Faith and Freedom Award in Government, the only such honor given specifically for religious activity in government.

Former Top Reagan Aide's Tactics Questioned In Sex Hearing Delays

By Joe Quintana
Bee Staff Writer

A1/3

A former top aide to Ronald Reagan and to Evelle Younger has been accused of using his old friends in the attorney general's office to delay the hearing of a doctor charged with sexually molesting patients, The Bee has learned.

Herbert Ellingwood, a Sacramento lawyer who was legal affairs adviser to then-Gov. Reagan and later special assistant to former Attorney General Evelle Younger, got the hearing postponed by activating "an old boy network of Republicans" in the office of Attorney General George Deukmejian,

said one source familiar with the situation.

In less graphic words, Robert Rowland, executive director of the Board of Medical Quality Assurance, questioned the integrity of Deukmejian's office. "The notion that physicians can hire politically prominent lawyers who are able to manipulate the disciplinary process to fit their convenience and their client's interest is totally unacceptable," Rowland told Deukmejian in a letter dated Aug. 5.

Deukmejian's chief deputy, Michael Franchetti, Monday disputed the suggestion of impropriety. The decision to postpone the Aug. 11 license revocation hearing of Ellingwood's client, Dr.

Ralph Kemp of Watsonville, had "absolutely nothing to do with politics or his (Ellingwood's) past association with this office," Franchetti said.

Franchetti said the attorney general's office agreed to a continuance because Ellingwood had an important federal case that conflicted with the medical board hearing and because Ellingwood said any time after the week of Aug. 11 would be suitable. "There should only be a minor delay," Franchetti said.

It was the second continuance granted at Ellingwood's request. The first postponement, also because of Ellingwood's conflicting commitments, was

See ELLINGWOOD, Back Page, A12

agreed to by the medical board.

Ellingwood did not return Bee telephone calls to his office.

Franchetti conceded that the medical board was not consulted about the second continuance. "As a general procedure, when we're talking about a continuance of this nature we do not consult the agency," he said.

However, said Rowland in his letter to Deukmejian, "It is virtually impossible for this hearing to proceed before January, 1981, due to the caseload in the Office of Administrative Hearings.

"We, therefore, are left with a unilateral decision made by your office, apparently based on pressure from a respondent's attorney, that will delay a hearing for six months or more.

"We have charged Dr. Kemp with serious violations of the law and allege that he is a threat to the public. Your staff appears to have acted in concert with the respondent's attorney, against the best interests and wishes of this agency and the public."

Kemp is accused by the medical quality assurance board of unprofessional conduct for allegedly sexually molesting three female patients against their will.

He was acquitted on two charges in a criminal trial and the third was dismissed. Asked why the board would pursue the case in light of the acquittal, a spokesman for the board's parent agency, the Department of Consumer Affairs, told The Bee, "We are not charging Dr. Kemp with criminal behavior. We're charging him with unprofessional behavior."

The chain of events that led to the postponement began on Dec. 12, 1979, when the medical quality assurance board charged Kemp with sexual transgressions against three patients.

A hearing was scheduled for July, but was postponed until Aug. 11, with the agreement of all parties.

On July 21, Ellingwood asked Deputy Attorney Richard Arnold, who represents the board in the Kemp case, if the case could be rescheduled, according to Rowland's letter. Arnold took the matter to Administrative Law Judge Phillip Hanley, who denied the request.

About this same time, according to Franchetti, Ellingwood called Steve Merksamer, a special assistant of Deukmejian, "to share his concern he might not get the continuance."

Merksamer, Franchetti said, called Willard Shank, chief of the civil law division, who in turn called the section chief, Assistant Attorney General John Huntington. The message as Huntington received it, Franchetti said, was not an order to agree to a postponement, but merely a request to look at the matter and agree only if "it was an appropriate thing to do, given the fact there was this federal case."

Franchetti added, "I want to emphasize that Mr. Ellingwood told Mr. Huntington that he was not trying to drag this out; that he (Ellingwood) would be ready next week."

Huntington, then ordered Arnold to agree to take the matter off the calendar.

Huntington and Arnold refused to comment.



HERBERT ELLINGWOOD
"old boy network"

Bee File Photo

Ellingwood, Herbert

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

BEE EDITORIAL

After Meese, The Deluge

JUN 17 1985 F
"Make the bastards jump through every hoop." That's how Assistant Attorney General William Bradford Reynolds proposed, a few years back, to handle a request from black parents that they be permitted to intervene in a school desegregation suit. Those parents, of course, are precisely the people whom the civil rights laws are intended to protect. Blacks were supposed to be able to rely on Washington as an ally; in this administration, they've been transformed into the enemy.

This story would just be a historical footnote, of no more than passing interest, were it not for the fact that the administration has now nominated Reynolds for the third-ranking position in the Justice Department. "Let the president pick his own team," the argument for Reynolds' confirmation goes. But there has to be a limit to team spirit. When one player, during his tenure in Washington, makes a mockery of the laws he's supposed to enforce, then he should be benched.

That's just what Reynolds has done as head of the civil rights division. He has pushed tax advantages for segregationist private schools, opposed extension of the Voting Rights Act, cut back on suits seeking non-discriminatory housing, and embraced gerrymanders designed to favor white candidates. Most recently, Reynolds has threatened two decades of racial progress — and defied judicial precedent — by insisting that affirmative action programs be curtailed.

Confirmation of Reynolds as associate attorney general would reward this record. Rejection would remind the White House that top officials in the Justice Department aren't just presidential loyalists. They're also supposed faithfully to execute the laws.

Meanwhile, as National Public Radio recently reported, those in line to fill lower echelon positions in the Justice Department make

Reynolds look almost like a moderate. Carolyn Kuhl, slated to succeed Reynolds as head of the civil rights division, and Charles Cooper, who is being proposed as head of the Office of Legal Counsel, made their mark as strong advocates of tax-exempt status for a private university that admits whites only.

Richard Willard, the prospective nominee to lead the civil division, is the chief author of National Security Council Directive 84. This policy statement — withdrawn only after it was greeted by near-unanimous criticism — would have authorized massive use of lie-detector tests for government employees and barred anyone with even the most lowly government security clearance from publishing anything, ever, without official approval.

The most remarkable of the prospective new appointments is Herbert Ellingwood, an old law school buddy of Ed Meese's, who — unless the Senate comes to its senses and says no — will be in charge of the Office of Legal Policy. For the past several years, Ellingwood has been heading up the Merit System Protection Board, which is supposed to keep the civil service system simon-pure. But while holding this job, Ellingwood has been working closely with the "talent bank" program of the American Coalition for Traditional Values — a group, headed by evangelical preacher Tim La Haye, that seeks a quota of federal jobs for right-wing fundamentalists. That looks like — and may well be — a conflict of interest.

If Ellingwood's new job comes through, he will have major responsibility for screening prospective federal judges. It's hard to imagine a worse choice. JUN 17 1985 F

When Ed Meese became attorney general, we were prepared for a department run by lawyers as undistinguished and as insensitive to ethical niceties as Meese himself. We weren't prepared for worse.

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FEDERAL BUREAU
OF INVESTIGATION

FM SAN FRANCISCO (161B-3605) (P) (SQUAD #6)

TO DIRECTOR, FBI (PRIORITY)

BT

U N C L A S

ATTN: SSA [REDACTED] SPIN UNIT, RM. 5161

HERBERT EUGENE ELLINGWOOD; SPECIAL INQUIRY; BUDED: PAST
RE BU TELETYPE TO SF DATED, JULY 26, 1985; AND SF
TELETYPE TO BU DATED, JULY 22, 1985.

ON JULY 26, 1985, HERBERT ROSENTHAL, GENERAL COUNCIL,
CALIFORNIA STATE BAR NUMBER 415-561-8332 ADVISED THAT THE
ONLY INDIVIDUAL WHO WOULD HAVE KNOWLEDGE OF APPOINTEE'S
NOMINATION FOR STATE JUDGESHIP IS THE SECRETARY OF THE
STATE, MARY WAILES. MRS. WAILES IS OUT OF THE COUNTRY
ON VACATION AND WILL RETURN THE WEEK OF AUGUST 5TH,
1985. ROSENTHAL STATED THAT FORMER MEMBERS OF THE
STATE BAR MAY RECALL THE INCIDENT, HOWEVER, DUE TO THE
CONFIDENTIAL NATURE OF THE BAR, THESE INDIVIDUALS WOULD

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57 APR 1 1985

NOT RECORDED
17 FEB 27 1986

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General Appellate Room 5155
TL 233

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cc [unclear]

PAGE TWO

SF 161B-360

U N C L A S

BE RELUCTANT TO SPEAK.

ROSENTHAL ADVISED THAT THE STATE BAR'S RECOMMENDATIONS TO THE GOVERNOR'S OFFICE ARE HIGHLY CONFIDENTIAL AND ARE NOT RELEASED TO THE PRESS. ONCE THE RECOMMENDATIONS ARE MADE, THE GOVERNOR'S OFFICE MAY MAKE THIS INFORMATION AVAILABLE TO THE PUBLIC.

ROSENTHAL STATED THAT HE PERSONALLY DID NOT RECALL THE INCIDENT, DUE TO THE FACT THAT THIS WAS NOT HIS AREA OF WORK IN 1974.

ROSENTHAL ADVISED THAT HE WOULD CONTACT THIS OFFICE UPON MRS. WAILES RETURN AND A MEETING WOULD BE SET UP TO DISCUSS THE PROBLEM.

LEAD: SAN FRANCISCO AT SAN FRANCISCO, CALIFORNIA:
WILL CONTACT MARY WAILES, SECRETARY OF THE CALIFORNIA STATE BAR AND INTERVIEW HER AS REQUESTED CONCERNING APPOINTEE.

BT

FBI

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a

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 8/2/85

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED

DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

TO: DIRECTOR, FBI (ATTN: HAND CARRY RM. 5158)

FROM: *Y/AMK* SAC, SACRAMENTO (161B-785) (RUC)

HERBERT EUGENE ELLINGWOOD
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On 8/1/85, the results of a search of the newspaper files of the SACRAMENTO BEE concerning appointee were made available to IA and are attached.

2 - Bureau - (Enc. 8)
 1 - Sacramento
 RMK/sr
 (3)

SEALED ENCL

*Enclosures detached
 & filed with SC
 Report dated
 7-30-85 JLE*

NOT RECORDED

4 AUG 3 1985

Approved: _____ Transmitted _____ Per _____
 (Number) (Time)

57 APR 12 1986

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24, 08

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE WASHINGTON FIELD	OFFICE OF ORIGIN BUREAU	DATE 8/2/85	INVESTIGATIVE PERIOD 6/29/85 - 8/2/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD		REPORT MADE BY SA 	TYPED BY act
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-30-2007 BY AUC 60324/BAW/STP/cld		CHARACTER OF CASE SPIN b6 b7C Third Party	


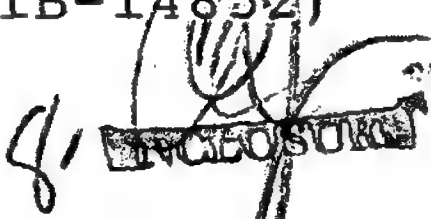
REFERENCE: Bureau teletype to WFO dated 6/29/85; Bureau airtel to WFO dated 7/23/85.

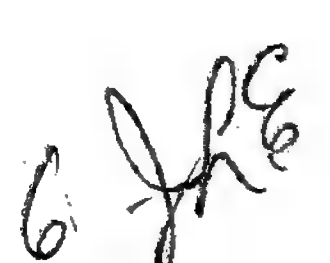
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ENCLOSURES

1. Copy of Committee Markup of Civil Service Reform Legislation report reference Civil Service Reform.
2. One copy of a report from the Merit Systems Protection Board regarding the GRETCHEN THOMAS matter.
3. Four pamphlets from the American Coalition for Traditional Values.
4. One copy of a fact sheet from American Coalition for Traditional Values entitled "How ACTV Works".

ACCOMPLISHMENTS CLAIMED <input type="checkbox"/> NONE						ACQUIT-TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES		

APPROVED 	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW	
COPIES MADE 2-Bureau 1-WFO (161B-14852)		<div style="border: 1px solid black; padding: 10px; text-align: center;"> ENC. BEHIND FILE NOT RECORDED 17 FEB 27 1986 </div>	
 copies to White House 8-19-85			

Dissemination Record of Attached Report					Notations 
Agency					
Request Recd.					
Date Fwd.					
How Fwd.					
By					

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COVER PAGE

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5. One Government Service Advisor Program Questionnaire.

ADMINISTRATIVE:

"Where appropriate, Privacy Act (e) (3) data was furnished to persons interviewed. Express promises of confidentiality, both limited and unlimited, have been noted where granted."

Telephone toll records from the Merit Systems Protection Board regarding the appointee's telephone calls have not been received by WFO. Upon receipt and analysis of those records, RUC report will be forwarded.

COVER PAGE

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FD-204 (REV. 3/3/59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

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Third Party

Copy to:

Report of: SA [REDACTED] Office: Washington, D.C.
Date: AUGUST 2, 1985

Field Office File #: 161B-14852 Bureau File#:

Title: HERBERT EUGENE ELLINGWOOD

Character: SPECIAL INQUIRY

Synopsis: Special Counsel, Comptroller, Acting Deputy General Counsel all from Merit Systems Protection Board (MSPB) interviewed and commented in the negative on any prior investigations into the alleged misuse of the MSPB telephone system by the appointee. Documents provided by Special Counsel showing results of investigation conducted on the appointee. American Coalition for Traditional Values (ACTV) leaders interviewed and denied involvement by appointee in "Talent Bank." Pamphlet showing ACTV activity provided. National Director of People for the American Way interviewed and renewed his objections to the appointee. Staff member on Committee on the Post Office and Civil Service Subcommittee interviewed and provided copy of allegations against appointee. GSA employee interviewed and provided information regarding prior requests for telephone toll records.

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DETAILS: AT WASHINGTON, D.C.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

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On July 24, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD: ✓

K. WILLIAM O'CONNOR, Special Counsel, Office of the Special Counsel of the Merit Systems Protection Board, stated that he has never heard of any allegations made against the appointee concerning the possible misuse of the telephone system at the Merit Systems Protection Board. O'CONNOR stated that he is not aware that any other entity has conducted any investigation into that particular allegation. O'CONNOR advised that he was aware of the GOVERNMENT ACCOUNTING OFFICE (GAO), investigation into the appointee's travel and honorariums, but is sure that that investigation did not cover possible misuse of a telephone system. He further advised that he was aware of Congresswoman SCHROEDER's Office looking into the appointee's private business, which was an import business from China. O'CONNOR stated that the appointee was not active in that business and has not been active since his appointment to the Merit Systems Protection Board. O'CONNOR additionally advised that his office had conducted a total of three investigation on the appointee since the appointee has been at the Merit Systems Protection Board. O'CONNOR stated that the three investigations, in which the Office of Special Counsel was involved, were the attempted use of influence to stall an investigation, the GRETCHEN THOMAS appointment matter, and the "Christian Talent Bank" matter. The "Talent Bank" was not investigated because of staff evaluations concluding that the allegation itself was frivolous. O'CONNOR stated that the THOMAS incident and the "Christian Talent Bank" incident were self-initiated by members of his staff. He further stated that those investigations and staff evaluations were conducted by his Chief of Investigations, BOB LA RUE, and the Inspector General for the Office of Special Counsel, JIM SUGIYAMA. O'CONNOR again advised that his office has never been party to or initiated investigation into the appointee and the allegation that the appointee used the Merit Systems Protection Board telephones to make long distance calls in the pursuit of private business. (S)

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On July 23, 1985, the following investigation was conducted by SA [redacted] in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

FRANK HAGAN, Comptroller, Office of the Comptroller, Merit Systems Protection Board stated that when he first took over as Comptroller of the Merit Systems Protection Board, his position was titled Director of Internal Controls. HAGAN further stated that he decided to break up that office and appoint a person to Division of Internal Audit and Control. He stated that the Division of Internal Audit and Control was formed to act as an Inspector General's Office (IG). That particular office does not do all the same functions of an IG Office but is similiar to that of an Inspector General's Office. HAGAN stated that the Director of Division of Internal Audit and Control, T. PAUL RIEGERT, has never conducted any investigation on the appointee. HAGAN advised that he has been involved in one investigation with GAO. HAGAN stated that that investigation centered on the appointee's possible misuse of government funds for personal travel and the appointee's receipt of honoraria for speeches made by the appointee while he was on government business. HAGAN stated that as far as he knows the complaints came from a Congressional Committee and the GAO Hotline. HAGAN stated that he does not know the exact source of those allegations. HAGAN stated that the extent of his involvement in that investigation was that he pulled travel vouchers and other documents pertaining to the appointee's trips. HAGAN stated that he has had no inquiry into the telephone toll records, either FTS or commercial, concerning the appointee. HAGAN further stated that he has never been asked to pull the toll records of anyone at the Merit Systems Protection Board nor has he pulled the toll records on his own. HAGAN stated that his office is the Office that receives the telephone bills, but that he never looks at the individual bills ^{and} but only concentrates on the total at the end of the month. HAGAN stated that the bills which he would see would only involve the commercial calls. HAGAN stated that the FTS calls would be logged at the GSA and their records would reflect those calls. HAGAN advised that his office has no relationship with the Office of Special Counsel and therefore would not know if the Special Counsel were conducting an investigation on anyone within the Merit Systems Protection Board. HAGAN further advised that the only way he would know is if the Office of Special Counsel had requested documents and made it known that they were in fact conducting an investigation.

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HAGAN advised that the only time that he was asked to check toll calls, was during July, 1983, when an employee by the name of JOANNE HURST, was involved in a disciplinary matter within the Merit Systems Protection Board. HAGAN stated that the reason they were interested in her telephone calls, was that she was frequently calling someone for advice and counsel. HAGAN stated that the findings were that she did not make unauthorized calls to the Washington Office of the Merit Systems Protection Board from her office in San Francisco. HAGAN stated that that investigation was made known to both SECRET SERVICE (SA [redacted] telephone number [redacted] and to the San Francisco Office of the FEDERAL BUREAU OF INVESTIGATION, first through [redacted] and then to SA [redacted]. HAGAN stated that the original interest in JOANNE HURST was not misuse of telephones but in her theft of money from a cash fund. HAGAN reiterated that he knows of no misuse of the telephones by the appointee or anyone else with the MSPB.

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On July 25, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD:

FRANK HAGAN, Comptroller, Office of the Comptroller, Merit Systems Protection Board, was contacted in reference to the FEDERAL BUREAU OF INVESTIGATION (FBI) receiving copies of telephone bills for the Merit Systems Protection Board. The request of Mr. HAGAN was from commercial and FTS calls made from the appointee's office, which includes any telephone lines he has at that office. HAGAN stated that the appointee has four telephone lines emanating from his office. The following telephone numbers are those lines which emanate from the appointee's office:

653-7101
653-7102
653-7104
653-7114

HAGAN stated that he was not directly responsible for the FTS lines and the telephone calls made from them, and that the FTS record of calls made would be maintained by GENERAL SERVICES ADMINISTRATION (GSA). HAGAN further stated that he would have BRIAN MASON, the person in charge of the telephone system for the Merit Systems Protection Board contact the Case Agent for more information concerning how those telephone numbers could be gotten from GSA. He further advised that he was in a position to have the commercial telephone bills checked for numbers of calls which emanated from the above mentioned telephone numbers. HAGAN stated that it would take him approximately four days to put together that information, and upon completion, would contact the FBI and provide copies of the telephone bills.

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On July 23, 1985, the following investigation was conducted by SA [REDACTED] in regards to the appointee, HERBERT EUGENE ELLINGWOOD.

BRUCE MAYOR, Acting Deputy General Counsel for the Merit Systems Protection Board, stated that the Merit Systems Protection Board, because of its position in the federal government, does not fall under the Inspector General Act. MAYOR stated that the Inspector General duties fall to the Office of the Comptroller, who is in charge of Internal Audit Functions. MAYOR further advised that his office, the Office of General Counsel acts as the Ethics Officer for the Merit Systems Protection Board. MAYOR stated the following is an example of their duties. If the Chairman would be investigated by GAO and the Chairman wanted someone from his office to help GAO conduct the investigation, then the Office of General Counsel would normally be asked to assist. MAYOR further advised that the Office of Special Counsel for Merit Systems Protection Board is an independent office that is "non-reportive" to the board. The Merit Systems Protection Board has no position to conduct an investigation independent of the other two. MAYOR also advised that if the Comptroller were conducting an investigation he would be much more likely to hear about that investigation than he would be if the Special Counsel were conducting the investigation. He further advised that the Special Counsel has no responsibility to report findings of any investigation to the Board and does not routinely report to them.

MAYOR stated that he is not aware that there were allegations made against the Chairman, HERBERT EUGENE ELLINGWOOD, for misuse of the telephones for personal business. MAYOR further stated that the Board was not asked by any other agency to assist them and as far as he knows that allegation has never been raised by anyone. MAYOR stated that in keeping with the independence of the Special Counsel, he would not necessarily know about a Special Counsel investigation until they came forward to the Board with that investigation. MAYOR reiterated that nothing of that type has come forward concerning the allegations of misuse of the telephones by the Chairman. MAYOR stated that he "would be amazed" if the Chairman were involved in that type of infraction.

MAYOR stated that he is not aware of any investigations other than the original GAO investigation. MAYOR advised that an incident known as the Thomas Affair was brought to their attention but did not directly affect the Chairman and his office was

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not directly involved in that investigation. MAYOR reiterated the fact that he is not aware of any investigations concerning the misuse of the telephones by the Chairman or any other investigations that may have been conducted by the Office of Special Counsel.

MAYOR stated that certain allegations concerning a "Talent Bank", have surfaced regarding the Chairman and his involvement in the organizations that support the "Talent Bank". MAYOR stated that as far as he is concerned the appointee has done nothing internally as far as hiring to indicate that a "Talent Bank" of Fundamentalist Christians exists. MAYOR additionally stated that he is not aware of any grievances submitted by any MSPB employees which allege that they were discriminated against because of their religion.

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On July 31, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

DR. TIM LAHAYE, President of the American Coalition for Traditional Values (ACTV), stated that he has been the President of ACTV since its inception in 1984. DR. LAHAYE stated that the term "talent bank", was used by himself and others early in the planning stages for ACTV but has since been amended to the Government Service Advisory Program. DR. LAHAYE stated that this term is more appropriate for what ACTV is actually doing at this time. DR. LAHAYE stated that the basic concept of ACTV is to raise the level of consciousness of Christians about working for the government. DR. LAHAYE stated that basically what his group does is inform other Christians about government position both career and appointed. DR. LAHAYE further advised that his organization is trying to get Christians to use their influence. The majority of Christians in this country have no idea how to go about seeking government positions and therefore his agency fills that gap by supplying them with material which lists job openings and by assisting them in filling out resumes and applications for government jobs. DR. LAHAYE stated that no master list of Christians exists within his agency, but that they do maintain files on persons who have submitted their resumes to them. DR. LAHAYE stated that he sees himself as an advisor to Christians who are interested in seeking government jobs. He further stated that the reason he is advising these people to seek government jobs is that for too many years, Christians have been told that a Christian can not serve the church and the government. He stated that he is trying to change this attitude among Christians and bring those who subscribe to the organizations "ten moral concepts", into government. DR. LAHAYE stated that, in fact, what he is trying to do is correct the image of government and get those people who have certain morals into positions where their influence can be exerted in the governing of this country. DR. LAHAYE advised that the 25% rule was initiated by him by using statistics which were gathered by independent poll takers. He stated that the statistics indicate that 25% of the American population feels that they are Born Again Christians. He further stated that if that is true, then he feels that 25% of all government employees should be fundamental Christians.

DR. LAHAYE stated that ACTV is run by an executive committee which has under it an executive board and a Board of

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KHS:man

Governors. The Board of Governors number^s approximately 500 and ~~are those persons in the states and cities throughout the United States.~~ DR. LAHAYE stated that all the board members are ministers except for one who is the head of a non-profit Christian organization. DR. LAHAYE stated that it is through these board members that the members of their churches learn about ACTV and therefore, it is from these churches and through the board members that names are submitted to ACTV. He further stated that notice is passed through the board members to the congregations in what DR. LAHAYE calls "call for action" on moral issues. DR. LAHAYE described these "call for actions" as a letter writing campaign on the ten moral concepts which ACTV subscribes to. DR. LAHAYE stated that persons on the local level and in the local churches learn about ACTV through this Board of Governors.

DR. LAHAYE stated that the appointee is not a member of any of the boards, either the Executive Board or the Board of Governors, due to the fact that he is not a minister. DR. LAHAYE added that the appointee is not affiliated in any way with ACTV and never has been so affiliated. DR. LAHAYE stated that he and the appointee do not have much contact at this time and only know each other through the religious aspect of their lives. DR. LAHAYE stated that during one meeting that he and the appointee had, he brought up the civil service system and found it strange that the appointee would not discuss that issue. DR. LAHAYE stated that it was not until later that he realized that the appointee in his position as Chairman of the Merit Systems Protection Board had certain responsibilities regarding the civil service system. DR. LAHAYE stated that the appointee did speak at the opening conference of board members. He stated that the appointee was brought there to speak as "a person in government." DR. LAHAYE stated that the appointee challenged the people at the convention to become involved in government service. DR. LAHAYE recalls that the appointee also called for people with traditional values to become involved in government. DR. LAHAYE stated that the appointee has no other active role in any of the aspects of ACTV. DR. LAHAYE stated that the concept of the talent bank was not the appointee's and that he has never been in touch with the appointee directly about the "talent bank". DR. LAHAYE stated that the appointee has never approached him in regard to the "talent bank." DR. LAHAYE stated that he does not know of anyone who has received a federal appointment or other job in the Federal Government through ACTV activities and associations with the talent bank of ACTV.

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DR. LAHAYE stated that the appointee was present during an informal dinner meeting at a Washington, D.C., Republican Club in February, 1984, when the discussion of the so-called "talent-bank" was discussed. DR. LAHAYE stated that the meeting was not an official meeting but that it was a meeting of several Christian leaders who were in town for various reasons. DR. LAHAYE stated that he does not recall the exact input of the appointee but does recall that at no time were there personalities discussed in regard to the "talent bank". DR. LAHAYE advised that it was at this meeting that the concept of the ADVISORY SERVICE otherwise known as "talent bank" was conceived. DR. LAHAYE stated that he does not believe that the appointee would ever use any type of coercion or any other activity to have anyone hired just because he is a supporter of the traditional values. DR. LAHAYE stated that he has no first-hand knowledge that the appointee is actively involved in various religious groups other than the minimal involvement with ACTV at its inception. He further advised that he believes that the appointee would never use his position to affect an appointment for a government position. He further stated that ACTV as a group does not demand anything but believes that a traditional Christian value point of view should be heard from within the government just as other points of view are heard within the government.

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On July 24, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] regarding the appointee, HERBERT EUGENE ELLINGWOOD.

CURTIS MAYNARD, Administrative Assistant to the President, Dr. TIM LAHAYE, American Coalition For Traditional Values (ACTV), stated that he first met the appointee in July of 1984. That meeting was prior to the ACTV's first convention. MAYNARD stated that at that convention, ELLINGWOOD addressed the convention and in his speech mentioned the concept of a talent bank. MAYNARD stated that the appointee also spoke about Christian fundamentalists becoming involved in government service. MAYNARD stated that he never heard the appointee say that twenty-five percent of the work force in the Federal Government should be fundamentalist Christians. He did say that Dr. LAHAYE, the president of ACTV has certain visions of putting that system into effect. He further advised that there are three ways in which the ACTV is trying to influence the dealings of government. Those three ways are through the placing of persons in government through appointments to government positions, encouraging persons to vote for people sharing the same beliefs, and through placing persons in career government positions. MAYNARD stated that the goal of the ACTV is to place persons into the government where they can bring fundamental values back into government. MAYNARD stated that during the past thirty to forty years, Christian fundamentalists have been taught to avoid government due to the fact that it is "bad". MAYNARD stated that Dr. LAHAYE has challenged that position and now is encouraging people to return to government service and bring back the fundamentalist values with them. MAYNARD stated that at this time, a master list does not exist in the office of ACTV, but that files are kept on persons who have responded to the ACTV call for action. MAYNARD advised that the way names are gotten by ACTV, is centered around the mailing of brochures from the national headquarters here in Washington to the executive committee members. Those members reproduce the brochures and send them to executive boards which cover all fifty states. The executive boards of those states then reproduce pamphlets and send them to the board of governors in cities around the country, who in turn distribute those pamphlets to their congregations. The board of governors in

many cases, is made up of preachers of fundamentalist churches who are sympathetic to Dr. LAHAYE and his doctrine. Interested persons fill out a fact sheet and along with five dollars return it to ACTV in Washington, D.C. In turn, ACTV upon receipt of the five dollars and a completed application sends those persons a copy of the basic 171 form and the guidelines for filing for federal positions. Included with the 171 form is a questionnaire which is to be filled out and returned with the applicant's resume. MAYNARD stated that a person interested in federal service would then fill out a resume and send it to ACTV in Washington, where it would be kept on file. MAYNARD advised that the services that ACTV provides to those persons on file are that ACTV sends them a copy of the OPM bulletins for appointed positions, known as the SES list. In addition to the SES list, ACTV subscribes to a private firm which provides listings for all government jobs. This listing is made available to registered members. MAYNARD stated that if ACTV is contacted by someone in a position to hire people for a government agency, ACTV checks through its files to find out if they have anyone who has the correct qualifications for that position. MAYNARD stated that in addition to having the correct qualifications, since they are registered with ACTV, they will be a fundamentalist Christian. MAYNARD stated that persons who do not meet the criteria for receiving the job are not steered to that job just because they are fundamentalist Christians. MAYNARD added that the concept of having twenty-five percent of the work force being fundamentalist Christians is Dr. LAHAYE's philosophy and it is based on the percentage of the U.S. population which has traditional moral beliefs. MAYNARD stated that twenty-five percent is a target level and not necessarily a set goal. MAYNARD stated that he is not aware if the appointee subscribes to that philosophy and reiterated the fact that he has never heard the appointee mention the twenty-five percent target level. MAYNARD stated that the philosophy behind the "talent bank" comes from books written by Dr. LAHAYE prior to the formation of ACTV by Dr. LAHAYE. MAYNARD stated that the role of the appointee in ACTV is "nothing whatsoever." MAYNARD stated that the original reports as seen in various digest articles concerning the appointee's involvement with ACTV are "not true." MAYNARD further stated that ACTV's intention is not to circumvent the civil service system of the federal appointment system, but to attempt to gain access to government positions for those people who have the same moral concerns as ACTV and its founder Dr. TIM LAHAYE. MAYNARD stated that ACTV views as its major goal, the dissemination of information of government jobs through

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its network of executive committees and local boards. MAYNARD stated that he has never contacted the appointee to request that the appointee look at any one specific person regarding any appointment that is available. MAYNARD stated that should the appointee need to hire someone and if ACTV felt that they had a qualified candidate, they would in fact contact the appointee and advise the appointee that a particular person is eligible. MAYNARD stated that they would only do that if the person is a supporter of the ten moral concerns and has the qualifications to meet the job requirements.

MAYNARD stated that ACTV is run on money it receives from the executive board, which receives money from the local churches which subscribe to Christian fundamentalist ideals. MAYNARD stated that when the executive board met to set up ACTV, they decided that ACTV would not be just another literature distributor for a national group. MAYNARD stated that the main priority at this time is to get people elected. He further stated that in the future, if an adequate staff is funded, the priorities might switch from getting people elected to staffing government jobs. MAYNARD stated that he has never received any indication that the appointee if given the opportunity, would give people the "inside track" on federal jobs.

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Third Party

On July 23, 1985, the following investigation was conducted by SA [] in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

BRIAN MASON, Chief of the Support Services Branch for the Merit Systems Protection Board, stated that he has access to all the telephone toll records that the office would keep and has access to the FTS records that GSA keeps. MASON stated that since he has been working at the Merit Systems Protection Board, he has not seen any abuse or misuse of the telephone system by either the appointee or anyone else from the Merit Systems Protection Board. MASON stated that there is nothing in the records to indicate that the Chairman (appointee) has abused the non-FTS system. MASON stated that he remembers only one or two occasions where he was asked to request toll records from GSA. MASON stated that one of the instances where he pulled toll records was upon the receipt of the request of MR. BEMBRY, who was Director of the Office of Administration for the Merit Systems Protection Board. MASON stated that this request was made for toll records covering the period February and March, 1982. MASON stated that BEMBRY did not say why he was pulling those records but that the records were pulled and presented to MR. BEMBRY. MASON advised that the only other time he pulled the GSA toll records, was upon a request from FRANK HAGAN, the Comptroller, who told him at the time they were looking for calls from San Francisco to Washington, D.C. MASON stated that he was never asked by the Office of Special Counsel or the Office of General Counsel to pull toll records for any type of investigation. MASON stated that he would not know if the toll records were pulled by anyone else outside the Merit Systems Protection Board. MASON stated that those records could be secured from GSA by anyone having the proper paperwork. He further advised that it has been his experience at the Merit Systems Protection Board that there are very few international phone calls made. MASON further advised that he has not reviewed all the records of the international phone calls, but he has never seen a large number of international phones calls made by any one person. MASON stated that he has had no indications that there is someone at the Merit Systems Protection Board abusing or misusing the phone system for their personal use.

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Third Party

On July 25, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

BRIAN MASON, Chief of the Support Services Branch of the Merit Systems Protection Board (MSPB), was contacted in regard to supplying more information on the securing of telephone bills from GENERAL SERVICES ADMINISTRATION (GSA) for particular telephone lines which are currently connected at the MSPB. MASON stated that the four telephone lines which emanated in the appointee's office, could be researched through GSA by contacting JOSEPH REESE, Statistical Control Branch, Branch Chief for FTS Samples, telephone number 566-0956.

MASON stated that when he requested telephone bills from GSA, he submits a form 1810 or a memorandum. MASON stated that to the best of his knowledge, the securing of information from GSA regarding FTS telephone calls takes approximately one month from the date of request.

MASON stated that after searching for records of prior requests to pull telephone toll records from the MSPB, he found the request for toll records from all offices of the MSPB for the months of February, 1982, and March, 1982. The request was made August 28, 1982. MASON stated that the person requesting the documents was Mr. BEMBRY, who was then Director of the Office of Administration for MSPB.

MASON stated that he was never told why the records were requested and had no idea who, if anyone, was being investigated. He further stated that he did not review any of those records. MASON advised that he was never asked by the Office of Special Counsel (OSC) or Office of Legal Counsel (OLC), to request telephone toll records for the appointee's telephone lines. MASON further advised that he would not necessarily be advised if another investigative agency was requesting the toll records of the MSPB. MASON further advised that Mr. HAGEN, the Comptroller at MSPB, at some point, also requested toll records from FTS lines. MASON stated that he made that request to GSA and that GSA forwarded the printouts to his office. MASON stated that he is not aware of where those toll records are at this time. MASON stated that on the few occasions when he has had to review FTS toll records, he has found very few international phone calls. Additionally, MASON stated that his records show

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that there are very few international phone calls in the system and that he has never seen a large number of international phone calls by anyone in particular. MASON stated that, as far as he was concerned, there were no indications that the MSPB telephone lines were being abused by employees and specifically by the appointee.

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Third Party

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On July 29, 1985, the following investigation was conducted by Special Agent (SA) [REDACTED] in regard to the appointee, HERBERT EUGENE ELLINGWOOD.

JOSEPH REESE, Chief of STS Network Sample Branch, GSA, telephone number 566-0956, stated that GSA maintains FTS records for one year. REESE further stated that the toll records are not complete and only contain a 20 percent sample of all FTS calls and that as another month's bill comes from AT&T then the last month bill is dropped. REESE further stated that AT&T sends GSA the tapes of the FTS calls, but does not retain any records. He stated that the local telephone company, in this case CHESAPEAKE & POTOMAC, keeps the records for only two weeks minimum and one month maximum. REESE stated that there would be no record of those calls at CHESAPEAKE & POTOMAC. REESE advised that a request for phone calls on FTS dating back to December, 1981, would not be available from GSA. REESE further advised that if records are desired from GSA, a letter stating the telephone numbers and a short history of the information being requested should be sent to GSA.

FEDERAL BUREAU OF INVESTIGATION

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ANTHONY T. PODESTA, National Director of PEOPLE FOR THE AMERICAN WAY (PFTAW), 1424 16th Street, N. W., Washington, D. C., was contacted by Special Agent (SA) [REDACTED] FEDERAL BUREAU OF INVESTIGATION (FBI), Washington Field Office, in regard to the appointee, HERBERT EUGENE ELLINGWOOD. PODESTA, after being advised of the identity of the interviewing Agent, provided the following information concerning the appointee:

PODESTA stated that the organization which he heads, PFTAW, objects to the appointee because of several facts. PODESTA stated that the most obvious fact is the appointee's connection to a so called "Christian Talent Bank." PODESTA stated that the very fact that religion would be part of the criteria for hiring of federal workers, both civil service and appointees, violates the United States Constitution. PODESTA stated that their opposition to the appointee lies with his support of such criteria and the possibility that the criteria could be used by the appointee should he be confirmed for the job to which he is being nominated. Additionally, PODESTA stated that the published reports have indicated that the appointee conceived of the "Christian Talent Bank." He further stated that he knows of no position which has been filled up to this time by the use of the Christian criteria as stated by the AMERICAN COALITION FOR TRADITIONAL VALUES (ACTV), and its alleged founder, the appointee. PODESTA stated that just the fact that the appointee associates himself with this strict fundamentalist Christian group concerns PODESTA's group.

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PODESTA also raised other objections to the appointee, citing the taking of government trips, paid for by the government, to conduct church and personal business. PODESTA had no specific allegations regarding which specific trips were made at tax payer expense, but indicated that through other sources previously unnamed, the appointee allegedly had conducted personal business while on these government financed trips. PODESTA also cited allegations that the appointee was making numerous international telephone calls for the express personal benefit of himself. PODESTA

Investigation on 7/24/85 at Washington, D. C. File # Washington Field 161B-14852
by SA [REDACTED] Date dictated 7/25/85

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Continuation of FD-302 of

ANTHONY T. PODESTA

On 7/24/85

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stated that these telephone calls were for personal and private business, and therefore did not fall under the category of business. PODESTA stated that he does not have any first-hand knowledge of this, but has received that information from ELLEN BATTISTELLI, Congresswoman SCHROEDER's Aide. PODESTA stated that the nature of BATTISTELLI's comments to him were that she thought that the telephone misuse was covered by a GOVERNMENT ACCOUNTING OFFICE (GAO) report, and the investigation that preceded its issuance. PODESTA stated that as far as he knows the Merit Systems Protection Board does not handle any business outside of the United States. PODESTA then draws the conclusion that the international calls are not needed, therefore, they were made for personal business.

PODESTA also addressed the statement he had made in an earlier interview concerning the appointee being withdrawn from nomination by then Governor REAGAN of California, to a position in the California Court System. PODESTA stated that while Governor REAGAN was in office in California, Governor REAGAN made it a practice not to place the names of nominees for judicial positions before the SACRAMENTO COUNTY BAR ASSOCIATION for their review. PODESTA went on to say that ELLINGWOOD was an exception to this rule, in that prior to a formal nomination by then Governor REAGAN, ELLINGWOOD's name was given to the SACRAMENTO COUNTY BAR ASSOCIATION for comment. Indications by the SACRAMENTO COUNTY BAR ASSOCIATION led then Governor REAGAN to believe that the appointee's appointment to the APPEALS COURT in California, would be controversial, and therefore, the appointee's name was withdrawn prior to any formal announcement. PODESTA indicated that this information comes from newspaper articles, which appeared in the "Sacramento Bee" and the "Los Angeles Times." PODESTA stated that these appointments were to take effect prior to then Governor REAGAN leaving the Office of the Governor in 1975. PODESTA stated that the reason given in the newspaper articles for the SACRAMENTO COUNTY BAR ASSOCIATION rejecting the appointee's name, was that the appointee lacked the requisite trial experience, which they felt was important for a judge sitting on the APPEALS COURT.

PODESTA then provided this Agent with copies of newspaper articles from the "Los Angeles Times," dated November 22, 1974, with the headline of "REAGAN Aide Reported In Line For Judgeship," and three articles from the "Sacramento Bee," dated January 24, 1969; March 14, 1974; and December 6, 1974. PODESTA indicated that the December 6, 1974, article announced that the appointee's name was being withdrawn as a nominee for the THIRD DISTRICT COURT OF APPEALS.

FEDERAL BUREAU OF INVESTIGATION

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7/25/85

Date of transcription

ELLEN BATTISTELLI, Professional Staff Member of the Committee on the Post Office and Civil Service, Subcommittee on Civil Service, 122 Cannon House Office Building, Washington, D. C., telephone 225-4025, was interviewed at her place of employment in regard to the appointee, HERBERT EUGENE ELLINGWOOD. BATTISTELLI was advised of the identity of the interviewing Agent and provided the following information concerning the information she received on the appointee:

BATTISTELLI stated that the committee which she works for, Committee on Post Office and Civil Service, and the Subcommittee on Civil Service are the oversight committees responsible for the Merit Systems Protection Board. BATTISTELLI stated it was in this regard that she conducted investigation into the GRETCHEN THOMAS matter, which concerned the appointing of an unqualified person to a Merit Systems Protection Board position. BATTISTELLI stated that she was also aware that the GOVERNMENT ACCOUNTING OFFICE (GAO) had conducted an investigation into the travel and honorarium situation concerning the appointee. BATTISTELLI stated that that investigation was prompted by a letter which made certain allegations concerning the improper travel of the appointee. BATTISTELLI stated that included in that initial complaint were allegations that the appointee had made thousands of dollars worth of overseas FTS calls from his telephone to conduct personal business. Additionally, the complaint alleged that since the Merit Systems Protection Board has no dealings overseas, that there would be no need to make telephone calls to any foreign countries, and therefore it could be concluded that the calls were made for personal business and not business at the Merit Systems Protection Board. BATTISTELLI stated that the complaint, when it arrived at her office, was not signed and she, to this date, has no knowledge who the complainant may have been. BATTISTELLI provided this Agent with a copy of the paragraph which deals specifically with the misuse of FTS telephone lines at the Merit Systems Protection Board. It should be noted at this time that the copy received by this Agent was not a copy of the original allegations, but a copy that was retyped on UNITED STATES HOUSE OF REPRESENTATIVES letterhead and included only that paragraph in which the allegations concerning the telephone calls appear.

7/24/85

Washington, D. C.

Washington Field
161B-14652

Investigation on

at

File #

SA

by

Date dictated

7/25/85

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ELLEN BATTISTELLI

on 7/24/85

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Continuation of interview of

BATTISTELLI stated that the reason she was not supplying this Agent with a copy of the original complaint, was that there were notations on the original which may lead the FEDERAL BUREAU OF INVESTIGATION (FBI) to identify that person who made the complaint anonymously and whom by submitting an anonymous complaint have placed their trust and confidence with BATTISTELLI. BATTISTELLI advised that she would continue to keep a copy of the original allegation. BATTISTELLI stated that she did not conduct an investigation into the allegations of the misuse of the telephones at Merit Systems Protection Board, due to the fact that she considered it relatively small in light of other allegations which were made concerning the appointee. BATTISTELLI stated that she did, in fact, advise others that she thought that the telephone matter had been addressed in a GAO report, which investigated the Chairman for alleged improper traveling for personal business at government expense, the misuse of a government vehicle, and the receiving of honorariums for speaking engagements done on government paid trips. BATTISTELLI stated that she was not aware of the contents of the GAO report, due to the fact that she had not reviewed that report for over one year. BATTISTELLI could not provide the identity of the person who made the allegations concerning the alleged misuse of the FTS Telephone System in the Merit Systems Protection Board by the appointee.

Attached is a typewritten paragraph on UNITED STATES HOUSE OF REPRESENTATIVES, Committee on Post Office and Civil Service, Subcommittee on Civil Service, letterhead. The typed paragraph appearing on this document was typed there by ELLEN BATTISTELLI. The paragraph was taken from the original letter which sets forth allegations against the appointee. This paragraph appears on that original document as one of several paragraphs. The original letter setting forth the allegations, is being maintained by BATTISTELLI.

NINETY-NINTH CONGRESS

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U.S. House of Representatives
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, DC 20515

TELEPHONE (202) 225-4025

Ellingwood is engaged in a private business that deals in oriental imports. During his two years at the MSPB he has taken two trips to the far east, one in 1982 for three weeks (at White House expense, we were told), the other for nine days in early 1984 (no one knows who paid for that one). Maybe the coincidence is innocent, but it bears checking. Furthermore, thousands of dollars worth of overseas FTS calls are being placed from the Chairman's telephone. Unfortunately, the computer printout of all FTS calls from GSA does not identify called country, but the need for any overseas calls is not apparent.

ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

161-15392-101

Re: ACTV

33-782

L. DRIBINSKY

**COMMITTEE MARKUP OF CIVIL SERVICE
REFORM LEGISLATION**

MARKUP MEETINGS

OF THE

**COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES**

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 11280

A BILL TO REFORM THE CIVIL SERVICE LAWS

JUNE 21, 22, 23, 28, 29, JULY 11, 12, 13, 17, AND 19, 1978

Serial No. 95—

Printed for the use of the Committee on Post Office and Civil Service



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ALL INFORMATION CONTAINED
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DATE 10-09-2007 BY AUC 60324/BAW/STP/cld

161-15392-101

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JAMES CREGAN, Assistant General Counsel

(II)

Mr. Nix. Is there any objection to the technical amendment? Hearing none, it is agreed to.

Mrs. SPELLMAN. I would like to raise a question, if I may, please. I voted in favor of having the administration able to answer questions. I think that it's very important that, in order to be sure that what we are doing is truly proper, that questions directed to the administration should be questions of fact, and not of opinion.

If we're going to be asking opinions, then I will ask for a reconsideration of that motion.

Mr. Nix. I think the gentlelady has served notice. I think that will serve the purpose that you're seeking.

Mrs. SPELLMAN. Thank you.

Mr. Nix. Are there any further amendments to title I?

Mr. HARRIS. Mr. Chairman, I have an amendment at the desk.

Mr. Nix. The gentleman is recognized.

Mr. HARRIS. It's a page 10 amendment.

Mr. Nix. Mr. Harris?

Mr. HARRIS. Mr. Chairman, this amendment would substitute the language that is in the bill, with respect to political recommendations and political referrals, which is an attempt to tighten it up just a little bit.

The amendment would provide that no employee that is in the business of considering personnel appointments, or what-have-you, could receive a recommendation unless it is furnished pursuant to a request to determine the loyalty, suitability, character, or that the recommendation is furnished pursuant to a request of an employee handling the personnel action.

What this amendment does, I believe, is make clear in the law with precision that such recommendations, either from political appointees, Members of Congress, or what-have-you, are not to be a matter of consideration as far as the merit system is concerned; and that if such recommendations are received, they would be returned with such notations on them.

I think it would supply, at this particular time, a needed bulwark against any allegations or suspicions of political considerations being given in merit system jobs.

In previous considerations of this type of legislation, some of my colleagues have raised the questions that: neither should an officeholder or a candidate for such job present such recommendations, and this language tries to cover this question, too; that the candidates, of course, should not, also.

I think we have gone through a period, Mr. Chairman, where we have tried to present to the public, and to the public employee, a concept that we have a truly merit system, competitive service, that is not influenced by politics within it.

We have political appointees that are political appointees. We have merit system people that are merit system people. But as long as we continue a practice of more or less winking at a process, of saying, "yes; political recommendations don't really matter," but when we go ahead and make them, and receive them, and consider them, I think we raise the suspicions and raise the questions in people's minds of whether we really have a merit system or not.

I think the adoption of this amendment would go a long way in correcting that. And if in fact we're going to consider the flexibility and other management tools that the administration wants, and that this committee is now considering, I think we have to make very sure that the public understands, that the public employee understands, and that those applying for public service jobs in the merit system, that this is truly a merit system, and that political recommendations have no influence on the consideration of them.

Mr. Chairman, I would urge the adoption of my amendment.

Mr. NIX. Mr. Solarz?

Mr. SOLAREZ. Thank you. Mr. Chairman.

My very good friend from Virginia has tenaciously pursued this proposal over the course of his tenure in the Congress. It's not the first time it's been put before us. If my recollection serves me correctly, a similar amendment was debated on the floor of the House at the time we considered the Clay bill to reform the so-called Hatch Act, and at that time I think it was decisively defeated.

I feel constrained to speak in opposition to the amendment because, while I recognize the gentleman is trying to protect the integrity of the merit system, it seems to me that the adoption of this amendment would create a somewhat anomalous situation whereby, of the 467,667 people living in each congressional district around the country, 467,666 could forward recommendations to the agencies of the Federal Government on behalf of particular applicants, but one of them—the Member of Congress representing that district—could not.

It would create a situation where, if an Einstein came to your office and indicated he'd like a job in NASA, you'd be unable to send in a recommendation on his behalf. If Douglas MacArthur wanted a job with the Defense Department, you couldn't say a word on his behalf. If Frank Lloyd Wright wanted a job with HUD, you wouldn't be able to say anything for him.

I find, as a Member of Congress, that I come into contact with a lot of people. I like to recruit able and talented people for the Federal service. And in the event someone of extraordinary ability comes to my attention, I don't want to be precluded by law by giving a recommendation on behalf of that individual. I would hope that the other members of the committee wouldn't, either.

I think one of the real problems we have these days is the extent to which people feel that public officials aren't responsive to their concerns. I think we would only feed the public cynicism if the thousands upon thousands of Americans who come to their Representatives asking for help were told that there was nothing that we could do for them. I don't think they'd believe it. They'd feel we just didn't care.

I think that the least we can do is to be in a position to send in a recommendation when someone asks for it.

Mr. HEFTTEL. I would hope that an Albert Einstein, or a Douglas MacArthur, would not need the recommendation of a Member of Congress.

But I think, far more important, we are all in a better position when we can truthfully and honestly say—because of our position in

Congress, because of the laws we pass pertaining to the civil service system, we do not enter into the arena of making recommendations. Because then, we may be influencing a system which should be based on merit, and not the political expediency of holding a congressional office.

There is also the fact that it could be misconstrued to mean that those who actively participate in supporting candidates for the Congress would then become subject to an advantageous position of recommendation when they go to a Member of Congress. I strongly support Mr. Harris' amendment, and I hope the committee will do so, also. Thank you.

Mr. FORD. Would the gentleman yield?

Mr. HEFTL. Certainly.

Mr. FORD. With due respect, I think you're missing the point. The language in the bill now limits the recommendations to providing information—if you'll read the top of page 11—"based on the personal knowledge or records of the person furnishing it." And, that doesn't mean that everybody that walks into a congressional office would be entitled to have a recommendation for a position.

They're applying for a job where there's an unassailable examination involved, and they've been known to a Member of Congress to be for 20 years on the Interior Committee, the outstanding expert in a particular field, and if the chairman of that committee is asked to comment from his personal knowledge on the experience and background of that person, I think he ought to be able to do it.

There's nothing in the language of the committee print that permits the wholesale recommendation that says because this person had the wit to ask a Congressman to recommend him, they're going to get a job.

It limits the recommendation to a statement that: of my own knowledge I know this person to be a well-established engineer, with great experience, and 10 years ago I worked with him on a particular job, and this is what he demonstrated he could do.

The further limitation is that it's on an evaluation of work performance, ability, aptitude, or general qualifications of the individual; an evaluation of the character, loyalty, or suitability of such individual.

Parts of what is in here would be permitted, I'm sure, by the gentleman's amendment. He wouldn't want to preclude an evaluation of the "character, loyalty, or suitability" of such individual.

And the burden on you, as a Congressman, is to say to the person: I don't know you, so I can't recommend you; or I only know that you've been active in a way that indicates to me that you have good character, loyalty, and suitability for Government employment, but I don't know anything about your expertise in the field that you're applying for the job for.

It does place a burden on the person writing the recommendation, but I'm surprised to hear here the suggestion that Members of Congress, or mayors, or anyone else write recommendations, willy-nilly, without regard to how the character and competence of that person being recommended is going to reflect on the person making the recommendation. It's a duty that I think comes with the job.

Mr. HARRIS. Will the gentleman yield?

Mr. HEFTL. Certainly.

Mr. HARRIS. Yes. Most of what my colleague from Michigan has commented on is covered in my amendment. If my colleague will read the amendment, he will note that:

"If the recommendation is furnished pursuant to a request made by an authorized representative of the United States solely to determine whether the individual involved in the personnel action meets the loyalty, suitability, and character requirements for employment: or

"(E) the recommendation—

"(i) is furnished pursuant to a request of an employee who is responsible for taking (or directing others to take), recommending, processing, or approving the personnel action; and

"(ii) consists solely of an evaluation of the work performance, ability, aptitude, character, or general qualifications of the individual involved in the personnel action."

I think that we have left open recommendations which are based on personal knowledge, that are part of the application, that where the Congressman has knowledge of the workability—someone that has worked for him, or what have you—can continue to make such a recommendation.

What this amendment does is much more fundamental, I think, than the ad extremis arguments that I hear from some of my colleagues.

What it does is make it crystal clear that the Congressman, or a political appointee, is not influenced improperly, from the basis of political concern or otherwise, the appointment or promotion in a merit system job. I hope that we can get this kind of language in. I hope that my colleagues understand, also, that the language even in the bill now attempts to do this. It relies on records, as well as personal knowledge—which means just a résumé sent into them—and is not nearly as definitive as the language that I've suggested.

My language does no more than try to make very definitive the procedure by which merit system jobs are considered, and where a personnel director receives an improper recommendation he simply returns that recommendation with a notation that this is not the type of recommendation that is considered in merit system jobs.

I think it is very important that we establish this principle, and quite frankly I think it is very important that Congressmen get out of the business of pretending to their constituents that they can get them merit system jobs.

The day we do that, we will have established a lot of credits.

Mr. HEFTTEL. Would you yield for a question?

Mr. HARRIS. It's your time, Mr. Heftel.

Mr. HEFTTEL. Well, I would like to ask you a question, though.

Is it not correct that your amendment is endeavoring to reach that position where it is the department, or agency, that takes the initiative in acting upon the request for the Congressperson's opinion, rather than the unsolicited opinion of the Congressperson being—

Mr. HARRIS. My colleague is precisely correct.

Mr. HEFTTEL. Thank you. So we are not losing a right; we are just taking away what may be an abuse.

Mr. HARRIS. Exactly.

Mr. NIX. Mr. Udall.

Mrs. SPELLMAN. Would the gentleman yield?

Mr. HEFTTEL. Yes, certainly.

Mrs. SPELLMAN. If the gentleman would yield to me.

Mr. UDALL. I'll yield.

Mrs. SPELLMAN. Oh, I'm sorry. I was asking Mr. Hefel. I didn't realize you had the time.

Mr. UDALL. My pleasure.

Mrs. SPELLMAN. The gentleman from Virginia is offering a proposal that I think is vital. If we are sincere that we have a merit system, if we are sincere that we are not going to tamper with it, if we are sincere with our own constituents, and if we're truthful with them, then all of this would fit together.

When we write letters for our constituents, we're giving them the impression that we can help them; we're giving them the false hope that our letters will open magic doors for them.

If those letters are not meant to open magic doors, then we ought to be able to say, forthrightly to our constituents: This is a merit system, and we really aren't able to help you with our letters of recommendation.

Therefore, let's fish, or cut bait. We either do help with the letters we send, or we don't. And if we don't influence these jobs, then let's spell it out very clearly in legislation so that everybody understands and we're all on the same footing. I send letters. I received a letter from one of the agencies saying it is improper for you to write a letter like this. And yet when I inquired, I found every other Member of Congress was writing those letters, and that I would appear to be turning down my constituents where they could get help from others.

Let's clarify this whole thing. It's a muddle today. And I feel very dishonest and smutty when I write letters giving the constituents the impression that I'm going to help him, and I know that at the other end it is not supposed to influence the appointment of these people.

Mr. NIX. Is there further discussion?

Mr. DERWINSKI. Mr. Chairman?

Mr. NIX. Mr. Derwinski.

Mr. DERWINSKI. I would point out that I obviously am an amateur at politics compared to the gentleman from Virginia, but as I read this carefully, this prohibition he provides is aimed at Members of Congress, employees of Members of Congress, and so on. It does not exclude, however, people such as national party committeemen, national party chairmen, county chairmen, State chairmen, ward committeemen, and so on.

So for example, if we took this amendment as drawn, the gentleman would be prohibited from certain recommendations, but one of his county chairman who might be in an opposite faction within his own party, might have this latitude that he deprives himself of.

I would suggest that either you should be consistent and add an additional subsection similar to that in the postal bill, in which you would exclude all political officials down to the level of ward committeemen or aldermen. Because otherwise, you would be penalizing yourself, theoretically, in having factional individuals in your own party have ability to be of assistance to someone when you yourself, in a most noble manner, have divorced yourself from that kind of a consideration.

Mr. HARRIS. Will my colleague yield on that point?

Mr. DERWINSKI. That's just fatherly advice from an amateur.

Mr. HARRIS. Will my colleague yield on that?

Mr. DERWINSKI. Yes; I yield.

Mr. HARRIS. Does my colleague indicate that he would support an amendment that went that far?

Mr. DERWINSKI. If it doesn't do a disservice to the administration's basic interest in the bill, I would.

[Laughter.]

Mr. UDALL. Would the gentleman yield?

Mr. NIX. Mr. Udall.

Mr. UDALL. Well, Mr. Chairman, this raises an important question, and Mr. Harris and Mrs. Spellman have problems that the rest of us don't have when we live 1,800 miles from the seat of Government. I recognize the particular burdens that they bear. I would just—before we vote on this—call to the attention of the committee two things.

First, the defeat of the Harris amendment would leave in the bill, on pages 10 and 11, a brief and I think a pretty effective prohibition on blatant political attempts to promote the hiring and promotion of individuals.

Second, we discussed this in the majority caucus at some length, and as Mr. Solarz said, this is an old chestnut that this committee's kicked around a long, long time. I agree with the observation that he made, and that Congressman Ford of Michigan made, and I would hope that this amendment would be defeated.

This would leave standing the administration's original proposal, which I thought was a pretty good and balanced proposal. If they're satisfied with it, I think that we ought to be satisfied with it.

Mr. NIX. There being no further discussion on the Harris bill, the vote occurs on the Harris amendment. Those in favor of the amendment will say aye. Those opposed, no. In the opinion of the Chair, the nays have it.

Mr. HARRIS. Mr. Chairman, on that, I'd ask for the yeas and nays.

Mr. NIX. The Clerk will call the roll.

The CLERK. Mr. Udall.

Mr. UDALL. No.

The CLERK. Mr. Hanley.

Mr. HANLEY. No.

The CLERK. Mr. Wilson.

[No response.]

The CLERK. Mr. White.

Mr. UDALL. Mr. White votes "no," by proxy.

The CLERK. Mr. Ford.

Mr. FORD. No.

The CLERK. Mr. Clay.

Mr. CLAY. No.

The CLERK. Mrs. Schroeder.

[No response.]

The CLERK. Mr. Lehman.

Mr. UDALL. No, by proxy.

The CLERK. Mrs. Spellman.

Mrs. SPELLMAN. Aye.

The CLERK. Mr. Harris.

Mr. HARRIS. Aye.
 The CLERK. Mr. Solarz.
 Mr. SOLARZ. No.
 The CLERK. Mr. Meyers.
 Mr. MEYERS. No.
 The CLERK. Mr. Heftel.
 Mr. HEFTEL. Aye.
 The CLERK. Mr. Garcia.
 [No response.]
 The CLERK. Mr. Metcalfe.
 Mr. CLAY. No, by proxy.
 The CLERK. Mr. Ryan.
 Mr. UDALL. No, by proxy.
 The CLERK. Mr. Derwinski.
 Mr. DERWINSKI. No.
 The CLERK. Mr. Rousselot.
 [No response.]
 The CLERK. Mr. Collins.
 [No response.]
 The CLERK. Mr. Taylor.
 Mr. DERWINSKI. No; by proxy.
 The CLERK. Mr. Gilman.
 Mr. GILMAN. Aye.
 The CLERK. Mr. Lott.
 Mr. LOTT. Aye.
 The CLERK. Mr. Leach.
 [No response.]
 The CLERK. Mr. Corcoran.
 Mr. CORCORAN. No.
 The CLERK. Mr. Chairman.
 Mr. NIX. No.
 Mr. FORD. Mr. Chairman, Mr. Wilson votes "no" by proxy.
 Mr. UDALL. Mr. Garcia votes "no" by proxy.
 The CLERK. On this vote, there are 5 ayes, and 16 nays.
 Mr. NIX. The motion is not agreed to.
 Mr. UDALL. Mr. Chairman?
 Mr. NIX. Mr. Udall.

Mr. UDALL. If there are no further amendments to title I, I would suggest that we make title II the pending business and that we then break until maybe 2 o'clock this afternoon, and see if we might be able to get a room in the Capitol.

Mr. FORD. Mr. Chairman, I move that title I be approved as amended.

Mr. SOLARZ. Would it be possible, Mr. Chairman, to make the gentleman from New York's amendment to title I the pending business when we reconvene at 2?

Mr. NIX. Yes; hearing no objections, so ordered.

Mr. HARRIS. Mr. Chairman, I would like to ask unanimous consent that the language appearing in the bill on the section that I just attempted to amend, that the brackets be removed from such language.

Mr. NIX. Is there objection? Without objection, so ordered.

Mr. HARRIS. Thank you, Mr. Chairman.

How ACTV Works

Many have asked, "How could such a diverse group of Christian leaders work together?" Very simple—we do not discuss theology! Instead, we concentrate on the moral concerns of our day on which we all agree.

Our unity is based on the facts that (1) we are all Christians and American citizens, (2) we are all deeply concerned about the religious growth of the humanistic religion of secularism that has made such drastic changes in our nation's moral values during the past 75 years, (3) we realize that independently no one group of us can have a significant impact on our government leaders, educators, and the media that is necessary to return our country to traditional values, and (4) by combining our efforts we can mobilize a sizable number of Christians and other religious-minded people to speak out simultaneously for the historic moral values essential to maintain a free and sane society. (1 Timothy 2:1-4)

Some of Our 1985 Goals

1. Establish an office in Washington, D.C. to provide ACTV an effective voice to our government leaders.
2. Coordinate broad-based action among our churches on the moral issues (listed on the next page) with particular emphasis on the value of human life amendment and decency in literature legislation.
3. Sponsor a conference in Washington, D.C. for Christians aspiring to elective office for periodic training and motivation on how to run an effective campaign.
4. Sponsor a conference for Black and White Christian leaders to encourage a better understanding between us in the social and moral concerns we share.
5. Through our talent bank help more Christians look on government service and employment as an opportunity to serve both our Lord and our country.
6. Additional projects as approved by our Executive Board.

If you desire more information, please write to: →

Our 10 Moral Concerns

1. We believe in the sanctity of human life, and thus support a Human Life Amendment to protect the lives of the innocent unborn.
2. We maintain that religious freedom must be regarded as the first and foremost of human rights.
3. We support both a voluntary prayer amendment to the Constitution and equal access legislation, in order to restore religious expression in our public schools.
4. We are committed to guaranteeing the civil rights of all citizens, but believe that the creation of so-called "gay rights" for homosexuals is a threat to our nation's family life and extends civil rights beyond what is appropriate.
5. We support enactment and enforcement of legislation to contain the moral blight of pornography in our land.
6. We affirm the importance of economic justice for women, but reject the Equal Rights Amendment without qualifications as the vehicle to achieve that worthy goal.
7. We contend that government must acknowledge that parents are responsible for the raising of their children.
8. We believe that parental choice of public or private education should be available to all Americans, not just the wealthy. Therefore, we favor tuition tax credits or the equivalent for parents who send their children to private schools.
9. We favor governmental assistance for the deserving poor, but only through programs which encourage individuals to be self-reliant, thus strengthening the family rather than weakening it.
10. We support a strong national defense as the surest way to protect the security and liberty of American citizens, and to assure peace and freedom in the world.

The 69 million born again Christians (according to the Gallup Poll) are not the only ones concerned about the loss of traditional values. We invite all Americans who share our moral concerns to join us in speaking out to our elected leaders to return this nation to the values upon which it was founded.

American Coalition for Traditional Values
122 "C" Street NW, Suite 800 • Washington, D.C. 20001



American Coalition for Traditional Values
122 C Street NW, Suite 800
Washington, D.C. 20001

GOVERNMENT SERVICE ADVISORY PROGRAM QUESTIONNAIRE

1. Name: _____
2. Address: _____
3. Telephone: (H) _____ (O) _____
4. Congressional District # _____
5. Are you registered to vote? _____
6. Did you vote in the national elections of 1980 and 1984? _____
7. Party Affiliation/Registration: _____
8. Do you have party registration in your state? _____
9. Date of Birth: _____
10. Married/Single/Divorced/Separated (circle) _____
11. Present Occupation: _____
12. Present Salary (yearly): _____
13. Religion/Denomination: _____
14. Education (last school attended/last grade completed): _____
15. Did you work in the 1980 or 1984 Reagan/Bush Campaign, either as a volunteer or paid staff on a local, state or national level? _____
16. If so, describe your activities in detail. If no, explain why you did not participate: _____

17. Have you been involved in the workings of the Republican Party or the Democratic Party in your state? If so, explain: _____

18. Explain your involvement in any other political activities other than party: _____

19. Do you believe in the sanctity of human life? _____
20. If so, by what method should the unborn be protected? (e.g. constitutional amendment, statute, etc.) _____
21. Do you believe in voluntary prayer in public schools? _____
22. Do you support the rights of parents to teach their children at home if they so chose? _____
23. Do you support tuition tax credits for parents who send their children to private schools? _____
24. Do you support the elimination of the U.S. Department of Education? _____

25. Do you favor government programs to teach sex education to school children, including contraceptive education? _____
26. Do you believe in the extension of "civil rights" to homosexuals? _____
27. Do you support legislation restraining, restricting, or banning pornography? _____
28. Do you support the Equal Rights Amendment to the Constitution? _____
29. Do you support Comparable Worth legislation? _____
30. Do you believe women should be subject to the military draft? If yes, should they be required to serve in combat? _____
31. Do you favor federally funded daycare centers for the poor? _____
32. Do you support a constitutional amendment to balance the federal budget? _____
33. Do you favor federal income tax indexing? _____
34. Do you support President Reagan's "enterprise zones" program which seeks to reduce taxes and regulations to induce industries to enter the inner cities? _____
35. Do you support the elimination of the Department of Energy? _____
36. Do you favor the U.S. signing a "Law of the Sea" treaty to restrict and regulate deepseabed mining of minerals by private companies? _____
37. Do you favor increasing or decreasing the Department of Defense budget? _____
38. Do you support a verifiable freeze of nuclear weapons? _____
39. Do you support the President's Strategic Defense Initiative, that is, the placing of non-nuclear defense systems in space? _____
40. Do you believe the United States should share technological information with the Soviet Union? _____
41. Do you favor recognition of Taiwan as the true Republic of China? Favor recognition of Red China? Favor recognition of both? _____
42. Do you favor the enforcement of the Monroe Doctrine by the United States in regards to Central America? _____
43. Do you favor monetary and military aid to freedom fighters in Central America? _____

OFFICE OF THE SPECIAL COUNSEL
U.S. Merit Systems Protection Board



The Special Counsel

1120 Vermont Avenue, N.W., Suite 1100
Washington, D.C. 20005

MEMORANDUM TO:

[Redacted]
Special Agent, FBI

FROM: *[Signature]* K. William O'Connor
Special Counsel, OSC

DATE: July 24, 1985

RE: Request for Information

b6
b7C
Third Party

Enclosed per our discussion are:

1. The official comment of the Office of Special Counsel made by me through my Director of Congressional & Public Relations after review of the Gretchen Thomas matter.
2. October 17, 1983, memorandum transmitting the Report of Investigation on file number 20-2-00048.
3. Package issued by the House Civil Service Subcommittee on June 4, 1984, regarding the Gretchen Thomas matter.

If I can be of further assistance, please let me know.

KWOC/lmb

Enclosures

6-JLE

Item 1

DRAFT

June 1, 1984

Mr. Ellingwood, as head of the Agency, had the right under his Schedule A authority to appoint any licensed attorney to any attorney position under his jurisdiction. Schedule A positions are considered "excepted" positions and are not filled by examination as are career civil servants positions. In addition, incumbents are not afforded the protections available to career civil servants. For example, a person appointed to a Schedule A position does not have tenure and hearing rights that are normally applied to the career civil service appointment. This provides flexibility and ensures the discretion of an appointing authority. In light of the laws and regulations which apply to Schedule A positions, I see no reasonable basis to initiate investigation of this matter.



OFFICE OF THE SPECIAL COUNSEL
U.S. Merit Systems Protection Board

Item 2

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Memorandum

TO: Lynn R. Collins
Associate Special Counsel
for Prosecution

FROM: Robert D. L'Heureux *RDL*
Assistant Special Counsel
for Investigation

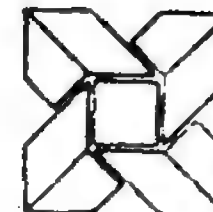
DATE: October 17, 1983

RE: OSC File No. 20-2-00048

I am transmitting the report of investigation into statements made by Mr. Truman Campbell to OSC investigators on September 15, 1982, for legal analysis and formal recommendations if necessary in this case.

My recommendation is that this report of investigation be transmitted with an appropriate letter to the California Bar for such action as it may consider appropriate against Mr. Campbell. I found no evidence of any impropriety on the part of Mr. Ellingwood.

RDL'H/bow



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DATE 05-30-2007 BY AUC 60324/EAN/STP/cld

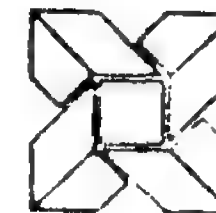
REPORT OF INVESTIGATION CONCERNING (FILE NO. 20-2-00048)

Re: Bill J. Sloan, Department of Housing and
Urban Development

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Narrative	Sec. A
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Witnesses and Evidence	Sec. E
Limitations on Investigative Coverage	Sec. F
Interviews and Investigative Activities	

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ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

OSC FILE NO.: 20-2-00048

DATE: October 17, 1983

REPORT OF: Robert L'Heureux OFFICE: Central

DISTRIBUTION:

Section A - Narrative

This investigation was ordered by the Special Counsel as a collateral matter to the separate inquiry in Sloan, OSC File No. 20-2-00048, an allegation of political personnel misconduct under the jurisdiction of the Office of Special Counsel of the U.S. Merit Systems Protection Board.

Pursuant to that investigation, Joseph Siegelman and Alan Ghirardelli interviewed Mr. Truman Campbell, a member of the bar of the state of California, in Fresno, California, on September 15, 1982. With the consent of Mr. Campbell, the interview was tape-recorded. A transcription of the tape recording contains this segment in the early minutes of the interview:

Truman Campbell (TC): "Isn't this [the substantive investigation] then moot?"

Joseph Siegelman (JS): "No, he's [Mr. Sloan] presently employed by the Federal government."

TC: "(inaudible) He's not presently employed in the same job after employment ceased and I think that you are wrong on your law."

JS: "Okay."

TC: "So does Herb Ellingwood."

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Report of Investigation
Section A - Narrative
Re: Sloan, Bill J.
Page Two

JS: "Okay, Herb Ellingwood? Who is Herb Ellingwood?"

TC: "(inaudible) He's your boss.

Alan Ghirardelli: "No, he's not. He's Chairman of the Merit Systems Protection Board. We work for the Office of the Special Counsel."

JS: "Have you communicated with Mr. Ellingwood about the investigation?"

TC: "I haven't been able to get ahold of him in the last couple of weeks. I saw him in Washington the last time I was there."

JS: "And he said we were wrong?"

TC: "Not about this."

(Case File - OSC No. 20-2-00048 - tape recording and transcript.)

On September 2, 1983, Mr. Herbert Ellingwood, Chairman, U.S. Merit Systems Protection Board (MSPB), was interviewed. Mr. Ellingwood denied any discussion with Mr. Campbell, whom he knows, concerning Mr. Sloan, whom he does not know. Mr. Ellingwood denied having discussed any matter under the jurisdiction of the MSPB at any time. Mr. Ellingwood directed his subordinates to review his personal records for evidence of any contact with Mr. Campbell which could be located. (Exh. 1)

On September 2, 1983, Vernon Spears, Mr. Ellingwood's assistant, stated that he recalled an incident involving Mr. Campbell which occurred in late April or early May, 1982. Mr. Spears stated that he accepted a telephone call from Mr. Campbell who was attempting to speak with Mr. Ellingwood. Mr. Spears recalled that Mr. Campbell explained to him that he was being investigated by employees of the MSPB who were seeking to examine his records. Mr. Campbell wished to discuss this with Mr. Ellingwood but Mr. Spears refused to permit it. The conversation ended at that point and Mr. Spears recalled no other contact with Mr. Campbell. (Exh. 2)

Mr. Campbell was interviewed in his office in Fresno, California on September 8, 1983. He was provided a transcript of the recorded interview of September 15, 1982. Mr. Campbell declined to elaborate on his remarks as reproduced above. He

Report of Investigation
Section A - Narrative
Re: Sloan, Bill J.
Page Three

stated that he did not recall ever having discussed a case under the jurisdiction of the MSPB with Mr. Ellingwood or Mr. Spears. (Exh. 3)

Section B - Agency and Individuals

1. Herbert Ellingwood, Chairman, U.S. Merit Systems Protection Board.
2. Vernon Spears, Executive Assistant to the Chairman of the U.S. Merit Systems Protection Board.
3. Truman Campbell, Attorney in private practice in Fresno, California, formerly Chairman of the California Republican Party.

Section C - Procedural Information and Applicable Law

This investigation was conducted as a matter collateral to the investigation of violation of restrictions on partisan political activity by Federal employees reported in Sloan - OSC File No. 20-2-00048.

The Civil Service Reform Act prohibits the officials of the Merit Systems Protection Board from issuing advisory opinions. 5 U.S.C. § 1205(g). An opinion concerning the jurisdiction of the Board over a Federal employee would constitute an advisory opinion.

Section D - Prosecutive Status

Not applicable.

Section E - Witnesses and Evidence

Omitted.

Report of Investigation
Section A - Narrative
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Section F - Limitations on Investigative Coverage

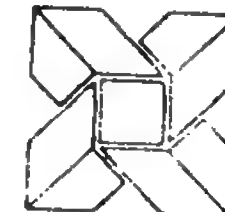
None.

Interviews and Investigative Activities

<u>Exhibit No.</u>	<u>Description</u>
1	Record of Interview of Herbert Ellingwood.
2	Record of Interview of Vernon Spears.
3	Record of Interview of Truman Campbell.

RDL'H/bow

OFFICE OF THE SPECIAL COUNSEL
U.S. Merit Systems Protection Board



Herbert Ellingwood

On September 2, 1983, Mr. Herbert Ellingwood, Chairman of the Merit Systems Protection Board (MSPB) was interviewed in his office at 1120 Vermont Avenue, N.W., Washington, D.C. The interview began at 10:15.

Mr. Ellingwood was shown the first two pages of the transcript of a tape-recorded interview with one Truman Campbell. Mr. Ellingwood read this transcript and stated:

- (1) He knows Mr. Campbell from his activities as an official of the California Republican Party.
- (2) He does not recall ever meeting a Mr. Sloan nor discussing any matter concerning a Mr. Sloan with Mr. Campbell.
- (3) Mr. Ellingwood has never discussed any case under MSPB jurisdiction with Mr. Campbell or any other person.
- (4) Mr. Ellingwood was involved in coordinating Presidential appointments while assigned to the White House before he took office as Chairman on December 18, 1981. During that time, he recalls being involved only in matters where Senate confirmation would be needed, not in Schedule C appointments.
- (5) He does not recall meeting Mr. Campbell while in the White House but may have done so. He has not communicated with Mr. Campbell since taking office as Chairman.
- (6) Mr. Ellingwood's telephone and appointment books were retained by his special assistants.

Investigation conducted on 9/2/83 at 1120 Vermont Ave NW, Washington, D.C.
by R. D. J. [Signature] . OSC file number _____
Date drafted 9/2/83 . Date prepared _____ by R. D. J. [Signature] .

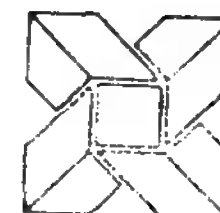
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Herbert Ellingwood
Page Two

After responding to questions, Mr. Ellingwood, in the presence of the undersigned, directed his special assistants to provide any requested assistance or access to his records. The interview was concluded at 10:25.

R. D. L'Heureux

R. D. L'Heureux
Assistant Special Counsel
for Investigation



OFFICE OF THE SPECIAL COUNSEL
U.S. Merit Systems Protection Board

On September 2, 1983, Vernon Spears, Executive Assistant to the Chairman of the Merit Systems Protection Board (MSPB) telephoned the undersigned at his office at 1120 Vermont Ave., N.W., Washington, D.C.

Mr. Spears stated that he had been directed by Mr. Ellingwood, the Chairman, to review his records and his recollection and provide the undersigned any relevant results pertaining to communication with one Truman Campbell.

Mr. Spears said that he had not located any record reference to this event but that he recalled a telephone conversation with Mr. Campbell. The conversation took place in late April or early May 1982, about 60 days after Mr. Spears came to the MSPB. Mr. Campbell was calling for Mr. Ellingwood and was referred routinely to Mr. Spears.

The substance of the telephone call was that Mr. Campbell was complaining that he was being investigated by MSPB employees from Los Angeles. The investigators were seeking to obtain Mr. Spear's telephone logs and other records, perhaps by subpoena. Mr. Campbell wished to discuss this problem with Mr. Ellingwood.

Mr. Spears stated that he informed Mr. Campbell that he would not permit Mr. Ellingwood to discuss this with him. The conversation concluded at that point. Mr. Spears recalled no other communication with Mr. Campbell.

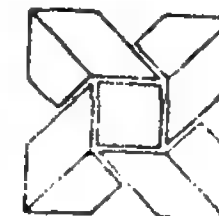
The telephone conversation with Mr. Spears ended at approximately 2:15.

RDL'H/bow

Investigation conducted on 9/2/83 at 3:45 p.m.
by Robert L'Heureux . OSC file number _____
Date drafted 9/2/83 . Date prepared same by bow .

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OFFICE OF THE SPECIAL COUNSEL
U.S. Ment Systems Protection Board



Truman Campbell, 1875 N. Fine, Fresno, California was interviewed at 1:50 p.m. on September 8, 1983, by Shea and L'Heureux. He stated:

Campbell is acquainted with [MSPB Chairman] Herbert Ellingwood and has talked to him on a number of occasions in the past.

Campbell did not recall any conversation with Ellingwood on the Sloan matter [This matter was the basis for the recorded interview by Joe Siegelman with Campbell on September 15, 1982].

Campbell recalled that he had seen Ellingwood's business card at some time. It identified him with the MSPB. When Campbell was contacted by OSC/MSPB attorney Siegelman, he wished to make a "casual inquiry" to find out about MSPB. Campbell professed not to know anything about the MSPB or its functions. He did not recall however, whether he ever reached Ellingwood. Campbell denied any recollection that he had discussed any case concerning the MSPB with Ellingwood.

Campbell did not recall talking to Vernon Spears, Executive Assistant to Chairman Ellingwood, at any time.

At his request, Campbell was given a copy of his recorded interview of September 15, 1982.

The interview concluded at 2:00 p.m., September 8, 1983.

Investigation conducted on 9/8/83 at Fresno, CA
by Bill Shea/Bob L'Heureux . OSC file number 20-2-00048
Date drafted 9/8/83 . Date prepared 9/9/83 by amb

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Item 3

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DATE 05-30-2007 BY AUC 60324/BAU/STP/cld

STATEMENT ON GRETCHEN THOMAS

Gretchen Thomas was qualified for the position for which she was hired and a thorough and impartial review of the facts--without regard to partisan politics--would demonstrate that at no time did the Chairman or any Board official violate merit principles.

Mr. Ellingwood has no intention of resigning.

[NOTE: THIS RELEASE, AS WELL AS THE ATTACHED LETTER, REPORT AND APPENDICES, ARE EMBARGOED UNTIL MONDAY MORNING, JUNE 4, 1984]

HONORABLE PATRICIA SCHROEDER
Chairwoman
Subcommittee on Civil Service
Committee on Post Office and Civil Service
122 Cannon HOB
Contact: Andrew A. Feinstein
(202) 225-4025

FOR RELEASE:
Monday morning,
June 4, 1984

REP. SCHROEDER RELEASES STAFF REPORT ON MSPB HIRING
OF GRETCHEN THOMAS; CALLS FOR MSPB HEAD HERBERT E. ELLINGWOOD
TO RESIGN FOR VIOLATIONS OF MERIT SYSTEM PRINCIPLES

Rep. Pat Schroeder (D-Colorado), Chairwoman of the House Civil Service Subcommittee, today called on Herbert E. Ellingwood, Chairman of the Merit Systems Protection Board (MSPB), to resign for violating merit system principles in the hiring of a close friend, Gretchen W. Thomas.

Rep. Schroeder wrote to Chairman Ellingwood requesting his resignation after she reviewed the report of an investigation conducted by the Subcommittee on Civil Service staff into the hiring of Gretchen Thomas. Rep Schroeder said that report "documents an appalling disregard...for the merit system principles.... For any agency head, such disregard is inexcusable. For the Chairman of the Merit Systems Protection Board, this disregard of merit system principles is grounds for removal."

Gretchen Thomas was hired, for her first job out of law school, as an attorney with MSPB in August 1982. She and her husband, Edwin, were close friends of Mr. Ellingwood and of Edwin and Ursula Meese. Edwin Thomas loaned Ursula Meese \$15,000 in 1980, a loan which was not reported on Mr. Meese's financial disclosure forms.

Rep. Schroeder said that the report shows that a new position was created just for Gretchen Thomas and no other individuals were allowed to compete for it. A job offer to a female Hispanic lawyer was revoked to create a slot for Gretchen Thomas, Rep. Schroeder said.

The investigation did not go into the role, if any, of Edwin Meese in the hiring of Gretchen Thomas.

[Copies of Chairwoman Schroeder's June 4 letter to Chairman Ellingwood, the staff report, and the appendices are attached.]

#

Never says. PPP.

NINETY-EIGHTH CONGRESS

PATRICIA SCHROEDER, COLO., CHAIRWOMAN
MORRIS K. UDALL, ARIZ.
KATIE HALL, IND.
GERRY SIKORSKI, MINN.
CHARLES PASHAYAN, JR., CALIF.
FRANK R. WOLF, VA.

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DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

U.S. House of Representatives
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515

TELEPHONE (202) 225-4025

June 4, 1984

Honorable Herbert E. Ellingwood
Chairman
Merit Systems Protection Board
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

Dear Mr. Chairman:

I have reviewed the enclosed staff report concerning the hiring of Gretchen W. Thomas by the Merit Systems Protection Board (MSPB). The report documents an appalling disregard by you for the merit system principles contained in 5 U.S.C. 2301. For any agency head, such disregard is inexcusable. For the Chairman of the Merit Systems Protection Board, this disregard of the merit system principles constitutes grounds for removal. I, therefore, call on you to resign as Chairman of the Merit Systems Protection Board.

The staff report relates the facts and circumstances surrounding the hiring of Gretchen W. Thomas by the Merit Systems Protection Board; it draws no conclusions. However, certain conclusions are inescapable:

1. Gretchen W. Thomas and her husband, Edwin, were close personal friends of yours.
2. In your conversations with MSPB Managing Director Richard Redenius and with San Francisco Regional Director A. Luis Lucero, you made it clear that you wanted Gretchen Thomas hired by MSPB.
3. There were no attorney-examiner positions at MSPB for which Gretchen Thomas was qualified and so a new position was created just for Ms. Thomas.
4. No other candidates were permitted to compete for the position created for Ms. Thomas.
5. Acting at your behest, top officials of MSPB ordered Mr. Lucero to hire Ms. Thomas.

Hon. Herbert E. Ellingwood
June 4, 1984
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6. An Hispanic woman, who was the same age as Ms. Thomas, who had returned to law school after raising children, as had Ms. Thomas, and who, unlike Ms. Thomas, had legal experience, was first offered a job and then rejected in order to create a slot for Ms. Thomas.

7. No effort was made to verify the credentials Ms. Thomas claimed, despite the fact that the validity of those credentials was essential to support the grade of the position to which she was appointed.

8. The requirement for fair and open competition for selection for a Federal job was ignored by the Merit Systems Protection Board.

9. Throughout the investigation, you and Mr. Redenius attempted to blame lower level staff, specifically Jacqueline R. Bradley, the Assistant Managing Director for Regional Operations, and A. Luis Lucero, for the violations of the merit system principles involved in the hiring of Gretchen Thomas.

The Merit Systems Protection Board has three primary functions. First, it serves as a court for employee appeals of agency personnel actions.

Second, it adjudicates cases brought by the Special Counsel in his role as protector of the merit system.

Third, it oversees and comments on the operations of the merit system, through its review of Office of Personnel Management regulations, its annual report on the significant actions of that Office, and its special studies unit. In all of these functions, the Merit Systems Protection Board serves as the guardian of the merit system. You spoke of the importance of this role in your confirmation proceedings.

More than one hundred years ago, Congress abolished the spoils system and established in its place a personnel system based on merit principles. The fundamental tenets of that merit system are articulated in the merit system principles, enacted as part of the Civil Service Reform Act of 1978. The very first of these principles reads

Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. [5 U.S.C. 2301(b)(1)]

Hon. Herbert E. Ellingwood
June 4, 1984
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This principle applies with equal vitality to recruitment, selection, and advancement of attorneys in the excepted service as it does to the hiring of individuals from a register in the competitive service. It applies with special force to the Merit Systems Protection Board, the agency in government with the mandate to safeguard the merit system.

The recruitment and selection of Gretchen W. Thomas trampled this principle. The excuses offered by representatives of the Merit Systems Protection Board for this action are just not plausible. One excuse is that Gretchen Thomas was hired to create a better balanced workforce. Nevertheless, MSPB suffered from severe underrepresentation of Hispanic employees. To hire Ms. Thomas, Regional Director Lucero was forced to withdraw his offer of employment to an Hispanic woman who, like Ms. Thomas, had returned to school after raising children. If a balanced workforce was truly desired, this Hispanic woman would have been hired in preference to Ms. Thomas.

Another excuse is that, because of the urgency of the air traffic controller workload, staffing decisions had to be made quickly. Yet, the San Francisco Regional Office advertised for the three positions it was allotted and had numerous qualified candidates. Further, Gretchen Thomas, as a GS-11, was incapable of deciding air traffic controller cases and, thus, her hiring was of little use in clearing up the backlog.

Another excuse is that Regional Director Lucero was just hiring employees of the Equal Employment Opportunity Commission. In that the Equal Employment Opportunity Commission adjudicates cases similar to those under the jurisdiction of MSPB, these employees had the experience necessary to decide MSPB cases. Moreover, Mr. Redenius only intervened in San Francisco to veto the appointment of a specific individual.

Another excuse is that, since attorneys are excepted from the competitive service by congressional enactment, the Merit Systems Protection Board is entirely free of all competitive requirements in selecting lawyers. A logical extension of this notion would permit the entire Justice Department to be staffed with political appointees. Clearly, this is not what Congress intended when, in 1944, it barred the creation of a central Legal Examining Unit. Rather, this restriction is meant to preclude the Office of Personnel Management from establishing an examination to test applicants for attorney positions in the Federal government. Nothing in this restriction bars agencies from testing applicants for attorney positions. And, the merit system principles require competitive appointment.

Hon. Herbert E. Ellingwood

June 4, 1984

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Federal employees and agencies must have confidence in the Merit Systems Protection Board. They must believe that the Board is beyond reproach in its defense of merit system principles. Your involvement in the appointment of Gretchen W. Thomas has shattered that confidence. Your activity has rendered the actions of the Board suspect.

Therefore, for the sake of the merit system and the civil service system, I call on you to resign.

Sincerely,

PATRICIA SCHROEDER
Chairwoman

Enclosure

STAFF REPORT OF THE SUBCOMMITTEE ON CIVIL SERVICE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
ON THE HIRING OF GRETCHEN W. THOMAS
BY THE UNITED STATES MERIT SYSTEMS PROTECTION BOARD
JUNE 4, 1984

Introduction

Gretchen W. Thomas was hired as a GS-11 Attorney by the San Francisco Regional Office of the United States Merit Systems Protection Board (MSPB) in the late summer of 1982 and reported for duty on September 7, 1982. It was her first legal job after graduating from law school the previous December. The position for which she was hired was not advertised and no other applicants were considered, even though the San Francisco Regional Office was at the time advertising for attorney-examiners at the GS-12, GS-13, and GS-14 levels.

Gretchen Thomas is married to Edwin W. Thomas, who is the Administrator of Region IX of the General Services Administration in San Francisco. Mr. Thomas loaned Ursula Meese, the wife of Edwin Meese, \$15,000 in 1980. This loan was not reported on Mr. Meese's financial disclosure forms, as is required under the Ethics in Government Act of 1978. This omission led the Committee on the Judiciary of the United States Senate, which currently is considering the nomination of Edwin Meese to be Attorney General, to request the appointment of an Independent Counsel, prior to any action on the Meese nomination.

The Merit Systems Protection Board is charged with responsibility for adjudicating appeals from certain adverse actions taken against Federal employees, conducting special studies to ensure that "the public interest in a civil service free from prohibited personnel practices is being adequately protected," [5 U.S.C. 1205(a)(3)], and reviewing rules and regulations of the Office of Personnel Management (OPM) to ensure that they do not involve prohibited personnel practices. The MSPB must be an unquestioned defender of the merit system principles, contained in 5 U.S.C. 2301, to have credibility with the agencies and employees whose disputes it resolves. The importance of this role was recognized by MSPB Chairman Herbert E. Ellingwood in his response to the prehearing question during his confirmation proceedings of "What are the MSPB's most important functions?" Mr. Ellingwood responded, "Simply put, I believe the Board's most important functions are to . . . play an active role in protecting merit systems and merit principles from political and administrative abuse."

Upon learning of the employment of Gretchen Thomas by the Merit Systems Protection Board and in response to allegations of improper hiring practices, Chairwoman Patricia Schroeder of the Subcommittee on Civil Service, Committee on Post Office and Civil Service, United States House of Representatives, requested the

staff of the Subcommittee to investigate and determine whether the merit system principles were violated by the appointment of Gretchen Thomas. The Subcommittee on Civil Service has authorizing jurisdiction over the Merit Systems Protection Board and legislative jurisdiction over the merit system principles, enacted as part of the Civil Service Reform Act of 1978 (P.L. 95-454). A copy of the merit system principles are contained in Appendix A.

CONDUCT OF INVESTIGATION

The investigation was conducted by the staff of the Subcommittee on Civil Service, with Ellen Battistelli as the principal investigator for the majority and Stephen Hemphill as the principal investigator for the minority.

On March 20, 1984, Chairwoman Schroeder sent a letter containing 20 questions to A. Luis Lucero, the Regional Director of the San Francisco Regional Office of the Merit Systems Protection Board (Appendix B). On March 30, Paul E. Trayers, Legislative Counsel to the Board, responded (Appendix C). Many of the attachments referred to in that letter are contained as other appendices to this report. Some have been deleted in an effort to protect the privacy of applicants for employment and others have not been reproduced because they are not material to the report.

An addendum to Mr. Trayers' letter of March 30 was delivered on April 3, 1984 (Appendix D). Further, at the request of the Subcommittee staff, a list of the staff of the San Francisco office was provided on March 28 (Appendix E).

Ms. Battistelli and Mr. Hemphill conducted interviews in San Francisco on April 2 and 3, 1984, questioning fourteen of fifteen professional staff members of the San Francisco Regional Office. The one attorney not questioned was out of town on official travel. Among those questioned were Gretchen Thomas and A. Luis Lucero. Ms. Battistelli conducted further interviews in San Francisco on April 4.

Interviews were subsequently conducted in Washington, D.C. Ms. Battistelli and Mr. Hemphill interviewed Richard Redenius, the Managing Director of MSPB, on April 10 and Chairman Herbert E. Ellingwood on April 12. Andrew A. Feinstein, the Staff Director of the Subcommittee on Civil Service, and Mr. Hemphill interviewed Jacqueline Bradley, the Assistant Managing Director for Regional Operations, on April 30. Also on April 30, Mr. Feinstein interviewed Frederick L. Foley, Director of the Office of Personnel, and E. Al Simpson, Director of the Operations Division of the Office of Personnel.

This report summarizes the findings of the majority staff. It has not been officially approved by the Subcommittee and, therefore, may not necessarily reflect the views of all of its members.

FINDINGS

1. Herbert E. Ellingwood, Chairman of the Merit Systems Protection Board, has been a close friend of Edwin and Gretchen Thomas, as well as of Edwin and Ursula Meese, for at least 15 years. Mr. Ellingwood worked with Edwin Thomas in the administration of then California Governor Ronald Reagan. Mr. Ellingwood and Mr. Meese were college classmates at Yale, served together in the Army, and literally worked side-by-side in the District Attorney's office in Alameda County, California. A copy of the biographical and financial information provided by Mr. Ellingwood to the Senate Committee on Governmental Affairs for his confirmation proceedings in 1982 (Appendix F).

2. Gretchen Thomas was a student at San Diego Law School when Ronald Reagan was sworn in as President. When her husband, Edwin, moved to Washington, D.C., in the late spring of 1981, she accompanied him and finished her law school course work at the Columbus School of Law, Catholic University, Washington, D.C. As part of her coursework, Ms. Thomas became a legal intern for Mr. Ellingwood, then a Deputy Counsel to the President. Ms. Thomas worked for Mr. Ellingwood from late August 1981 through December 1981, averaging eight to ten hours a week. She received no compensation for this internship, but did receive academic credit. Appendix G contains the correspondence between Catholic University and the White House concerning Ms. Thomas' internship. Ms. Thomas graduated from San Diego Law School in December 1981. Her husband returned to California shortly thereafter when he was appointed Regional Administrator of Region IX of the General Services Administration in San Francisco on March 1, 1982. Ms. Thomas took the California bar examination in February 1982 and was admitted to the bar in June of that year.

3. Sometime in March or April of 1982, Gretchen Thomas travelled to Washington. She had a lengthy meeting with Mr. Ellingwood, who was serving as Chairman of the Merit Systems Protection Board, in his office at MSPB. On December 14, 1981, President Reagan had nominated Mr. Ellingwood to be Chairman of MSPB and, since Congress was out of session, exercised his prerogative to make recess appointments by appointing Mr. Ellingwood to serve as Chairman pending his confirmation by the Senate. Mr. Ellingwood's recess appointment became effective on December 18, 1981. He was not confirmed by the Senate until May 6, 1982. According to both Ms. Thomas and Mr. Ellingwood, during the course of the conversation between them, the topic of Ms. Thomas' future plans came up. Mr. Ellingwood suggested that she pursue trial practice, but Ms. Thomas said she would prefer less taxing work. Mr. Ellingwood then suggested a position with the Attorney General of the State of California. Mr. Ellingwood recommended the name of a man she could call there. Ms. Thomas called the man and found out that no job would be available until October. Mr. Ellingwood also suggested work at the Merit Systems Protection Board. Over the next several months, Mr. Ellingwood

kept tabs on her job search. In June or July of 1982, Mr. Ellingwood once again inquired about her interest in working at MSPB. At this point, Ms. Thomas expressed interest and sent copies of her resume to Mr. Ellingwood and to the San Francisco Regional Office of MSPB. On this resume (Appendix H), Ms. Thomas stated that she was in the top third of her law school class. This superior law school credential was essential to justify a GS-11 position for an inexperienced attorney, pursuant to government-wide regulations on the hiring of entry level attorneys. It is not clear who told Ms. Thomas of the necessity of including this qualification on her resume. *

4. The Merit Systems Protection Board was created in 1979 by Reorganization Plan No. 2 of 1978 (92 Stat. 3783) and the Civil Service Reform Act of 1978. Organizationally, the MSPB was created by consolidating the Federal Employees Appeals Authority and the Appeals Review Board of the old Civil Service Commission. The initial employees of each regional office had come out of the old Federal Employees Appeals Authority. Once the Board was on its own, it made some important changes. One change was to require all presiding officials to be attorneys. This led to the attrition of a number of the Appeals Authority employees. This substantial change in the agency created major transitional management problems and also led to a deterioration in morale in the regional offices. The insecurity which this change caused in regional offices was heightened by the autocratic management style of Paul D. Mahoney, who was, until early 1982, the Deputy Managing Director, with responsibility for the regions.

5. On April 26, 1982, A. Luis Lucero became Regional Director of the San Francisco Regional Office. He had formerly been the Regional Director in Seattle. Mr. Lucero took over the San Francisco office at a critical time. He was the fourth regional director since the office opened in late 1979. The office had a history of management problems, a massive backlog of cases, and a huge workload. The office was understaffed and housed in one large room, with partitions providing the only privacy for the attorneys in the office. At the time of his appointment as Regional Director, Mr. Lucero faced 1,490 pending air traffic controller appeals, hundreds of backlogged non-air traffic controller cases, and 85 to 90 incoming cases each month. Prior to Mr. Lucero's appointment, the San Francisco office had gone through three regional directors. Bert J. Deutsch, the first Director, resigned in December 1981. David Corsi, a presiding official, was Acting Regional Director for two months until Lawrence E. Shearer became Acting Regional Director in February 1982. He was replaced by Mr. Lucero. Mr. Lucero had initially been hired from the Equal Employment Opportunity Commission (EEOC) in Seattle by Jacqueline Bradley, who was then Acting Regional Director for Seattle, in July 1980. Mr. Lucero had become the Seattle Regional Director in November 1980. His performance there led to his selection as the Regional Director of the San Francisco region, which is much larger than the Seattle region.

6. Richard Redenius worked out of the Office of Management and Budget on the task force drafting the legislation which was to become the Civil Service Reform Act of 1978. He started with the Merit Systems Protection Board when it opened its doors on January 11, 1979. He has been the Board's first and only Managing Director. In 1982, he had two operating managers reporting to him: Jacqueline R. Bradley, the Assistant Managing Director for Regional Operations, and Paul D. Mahoney, the Assistant Managing Director for Management. Mr. Mahoney, who previously had authority over the regions, had been stripped of that authority. The United States Court of Appeals for the District of Columbia severely criticized Mr. Redenius in reversing his removal of the Chief Appeals Officer of the Washington Field Office of the Merit Systems Protection Board. In its decision in Lanphear v. Prokop, 703 F.2d 1311 (1983), the court questioned Mr. Redenius' credibility and castigated his handling of the removal (Appendix I).

7. Although Mr. Redenius, together with Ms. Bradley and Mr. Ellingwood, hired Mr. Lucero as Regional Director, Mr. Redenius said he had serious questions about Mr. Lucero's ability to handle the job. According to Mr. Redenius, Mr. Lucero would have to prove himself: "He would not just get a free ride." Mr. Redenius said that he was ready to fire Mr. Lucero in February 1984 but, because of congressional and media interest in the Gretchen Thomas case, he was now unable to take such an action. Mr. Redenius did concede that the San Francisco office had met the major hurdles of completing its air traffic controller cases and reducing its backlog under the leadership of Mr. Lucero.

8. Within a week of receiving Ms. Thomas' resume, Mr. Ellingwood gave a copy of it to Richard Redenius, Managing Director of MSPB. Chairman Ellingwood and Mr. Redenius both say the resume was transmitted without recommendation and in a non-directive manner. Chairman Ellingwood states that he has given perhaps two dozen resumes to MSPB office directors, all without recommendations. The Subcommittee has asked for a list of those resumes; Chairman Ellingwood has said he kept no records. The Subcommittee has identified only two other individuals whose resumes were passed along by Mr. Ellingwood. In one case, a young lawyer Mr. Ellingwood knew from the Christian Legal Society wrote to Mr. Ellingwood regarding a job. The resume found its way to the San Francisco Regional Office, but the individual was neither interviewed nor hired. In the other case, the resume of Barbara J. Benjamin, who had worked at the Interstate Commerce Commission, was passed along to Jacqueline Bradley, Assistant Managing Director for Regional Operations. Ms. Bradley hired Ms. Benjamin as a GM-14 Attorney in her office. Ms. Bradley states she knew that Ms. Benjamin and Mr. Ellingwood were involved in religious activities together.

9. On August 3, 1981, over 11,000 air traffic controllers went out on strike against the government. Striking against the government is prohibited by section 7311 of title 5, United States

Code. A few days later, they were all fired for participating in this action. By the winter of 1982, it was clear that the MSPB would be deluged with appeals from over 11,000 fired controllers. The Administration responded to MSPB's pleas for additional resources by requesting a supplemental appropriation of \$4 million to fund additional full-time positions at MSPB to handle the air traffic controller workload. Although this supplemental request was transmitted as part of the President's budget on February 8, 1982, final congressional action did not occur until mid-July. Indeed, in a continuing resolution passed on December 15, 1981 (P.L. 97-92), MSPB and certain other agencies had suffered a 15% across-the-board cut retroactive to October 1, 1981. So, in the midst of cancelling travel and new hirings, and planning furloughs, top officials at the Merit Systems Protection Board began to develop plans to hire quickly additional staff once the supplemental appropriations bill became law. To be able to bring staff on board quickly so that the full appropriations could be utilized, hiring authority was decentralized to the regional directors and administrative officers. While each office would be able to do its own hiring, final approval of each new hire remained at headquarters and slots continued to be allocated by the Managing Director, Mr. Redenius. Because regional directors and administrative officers were inexperienced in hiring, Frederick L. Foley, the Acting Director of the Personnel Management Division, distributed a memorandum on the recruitment of attorney-examiners to these individuals on March 9, 1982. This memorandum, which is Appendix J, described the use of vacancy announcements, the length of time an announcement should remain open, the qualification requirements for appointees, the use of ranking factors, and the procedure for final approval by headquarters.

10. Attorney positions in the Federal government are excepted from the competitive service because they are positions "for which it is not practicable to examine" [5 C.F.R. 213.3101(a)]. This exception is imposed by an appropriations restriction which has been in effect since 1944. The legislation was a reaction to an effort by President Franklin D. Roosevelt to place attorneys in the competitive service. His effort grew out of a Report of the President's Committee on Civil Service Improvement [House Document No. 118, 77th Congress, 1st Session (1941)]. Acting on that report, President Roosevelt created, by Executive order, a Legal Examining Board, to test attorneys and bring them into the competitive service. In 1944, Congress acted to bar the Civil Service Commission from setting up such a Legal Examining Board and has extended the ban every year since. According to a 1979 Justice Department memorandum (Appendix K) to Alan K. Campbell, Director of the Office of Personnel Management, OPM can have no role in requiring agencies to use any sort of a numerical rating system with regard to attorney hiring. On the other hand, the Justice Department memorandum points out that

. . . it should be noted that while OPM is barred by its appropriation legislation from implementing attorney

examination systems, this bar does not extend to other agencies, not similarly restricted, that might wish to implement or experiment with rating or other examining systems in their own attorney hiring procedures.

[Attachment to Federal Personnel Manual Letter 302-5, page 11 (1979)]

While attorney positions are excepted from competitive examination, they remain covered by the merit system principles, particularly the first one which reads

Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. [5 U.S.C. 2301(b)(1)]

Open competition and competitive selection apply with equal vigor to the appointment of attorneys in the Federal service as they do to the appointment of competitive service employees. The congressional ban merely prohibits the Office of Personnel Management from establishing a uniform examination and requiring agencies to select attorneys from registers.

11. On April 2, 1982, the San Francisco Regional Office of the Merit Systems Protection Board published vacancy announcement number 82-10 for attorneys at the GS-12, GS-13, and GS-14 levels (Appendix L). For the lowest advertised grade, a GS-12, the applicant was required to be a law school graduate, have a membership in a bar, and either have two years of professional legal experience, or an LL.M. plus one year of legal experience, or superior law student work plus one year of legal experience. These requirements are set in MSPB Order No. 1412.1 (Appendix M). The job announcement was distributed widely through local bar associations, law schools, and minority and women's groups, as well as the normal OPM distribution network. This vacancy announcement was to fill the three slots which were to be allotted to the San Francisco Regional Office once the supplemental appropriations bill became law. The Regional Office was only interested in hiring experienced attorneys because only those at the GS-13 level and above were permitted to handle MSPB cases involving the removal of Federal workers. All 11,000 air traffic controller cases were such removal cases. No GS-11 position was advertised or contemplated.

12. During April 1982, at least 15 resumes and SF-171s (the Federal government's standard job application form) of attorneys came into the San Francisco Regional Office in response to the vacancy announcement. It is exceptionally hard to recreate the selection process because the files are confused and incomplete. The Subcommittee has been provided with the following: 20 resumes or SF-171s received in response to the vacancy announcement; a

list of 14 people interviewed a total of 18 times; a contemporaneous listing of 20 SF-171s, which contains the names of six individuals for whom no SF-171s were provided; and copies of seven letters sent by Mr. Lucero to applicants, five of which went to individuals whose names did not appear on the contemporaneous list and for whom no resumes were supplied. The entire recruitment and selection process extended from April through August of 1982. While most SF-171s arrived during April, immediately after the posting of the vacancy announcement, others came in later. Indeed, two of the four individuals ultimately hired for permanent positions sent in their SF-171s in late June and late July, respectively.

13. Lawrence Shearer, who was Acting Regional Director until late April 1982, interviewed three candidates, one of whom was Jennifer Gee, one of the four finally hired. Between May and June, A. Luis Lucero, the new Regional Director, reinterviewed Ms. Gee and the other two applicants already interviewed by Mr. Shearer, and interviewed ten more job seekers, including LuNell Anderson, who was also hired in August. Besides Ms. Gee and Ms. Anderson, Samuel A. Vitaro and Gretchen Thomas would be hired. Mr. Vitaro was recruited by Mr. Lucero who knew him from working with him at the Equal Employment Opportunity Commission in Seattle. Mr. Vitaro sent Mr. Lucero his resume on June 28. He was not interviewed in person, although the recommendations he provided were superb. Ms. Thomas' resume did not reach the San Francisco office until July 28 and Mr. Lucero did not interview her until early August. However, Mr. Lucero had been on the lookout for Ms. Thomas' resume for quite some time, having been alerted to it by Chairman Ellingwood.

14. Chairman Ellingwood visited the San Francisco Regional Office at the time Mr. Lucero became Regional Director on April 26, 1982. One of the things Mr. Ellingwood was doing in San Francisco was lobbying Edwin Thomas, the GSA Regional Administrator, for better office space for the MSPB Regional Office. The San Francisco Regional Office had long been housed in a single room which was divided by partitions. The Board sought space which afforded private offices for the attorneys. Chairman Ellingwood introduced Mr. Lucero to Mr. Thomas during that visit. During the meeting between Edwin Thomas, Herbert Ellingwood, and A. Luis Lucero, the three discussed Gretchen Thomas and the fact that she was a recent law school graduate looking for a job. In June, GSA informed MSPB that it had arranged for a substantial improvement in office space for the MSPB Regional Office. The Regional Office moved in September 1982.

15. Mr. Lucero remembers a number of conversations between Chairman Ellingwood and himself subsequent to their meeting in late April and prior to the hiring of Ms. Thomas in early August. During each of those conversations, Mr. Ellingwood mentioned the job search of Gretchen Thomas. Mr. Lucero believed that Mr. Ellingwood wanted Gretchen Thomas hired by the San Francisco Regional Office. At one point, Mr. Lucero told Mr. Ellingwood

that Ms. Thomas did not have the necessary qualifications for any available job in San Francisco. According to Mr. Lucero, Mr. Ellingwood indicated that this did not matter and that Mr. Lucero should "back off."

16. In early June of 1982, Chairman Ellingwood, Mr. Redenius, and Ms. Bradley met to discuss the imminent hiring surge planned by the Board as soon as the supplemental appropriations bill became law. The discussion revolved around building a balanced workforce. Since the new hiring of 54 people would be a large augmentation of the Board, the three discussed equal employment opportunity representation. According to the Affirmative Action Program Plan of the Board, submitted to EEOC on December 17, 1981, Hispanics were grossly underrepresented at the Board. The regional offices had a total workforce of 148, but only had five Hispanic employees. Ms. Bradley was tasked with calling the regional directors to find out who each of the regional offices planned to hire.

17. Mr. Lucero informed his Washington superior, Jacqueline Bradley, that his goal was to hire the best qualified, most experienced individuals he could find. He said he planned to hire Jennifer Gee, Samuel Vitaro and a 44 year old Hispanic woman, who shall be called Ms. A to protect her privacy, for his three new slots. All three had recent experience with the Equal Employment Opportunity Commission, Mr. Vitaro in Seattle and the other two in San Francisco. Ms. Gee, 33, was hired as a GS-13, the same grade as the job she held at the San Francisco office of the EEOC as a trial attorney. She had worked at EEOC since 1972. Mr. Vitaro, 39, was hired as a GS-14, the same grade he held in the Seattle office of EEOC. He had worked at EEOC since 1978. Ms. A was born in 1937, the same year as Gretchen Thomas. Like Ms. Thomas, she had returned to school in her late 30's to become a lawyer. She had received honors in law school and, most importantly to Mr. Lucero, she had two years of litigation experience in a private firm after leaving EEOC, where she worked from 1974 to 1980. Ms. A was to be hired as a GS-12.

18. On July 20, 1982, Ms. Bradley called Mr. Lucero and told him to hold up on the hiring, according to both Ms. Bradley and Mr. Lucero. Mr. Redenius had a problem with Mr. Lucero's decision to hire all his new employees from the EEOC and wanted other individuals considered. Indeed, Mr. Redenius told Subcommittee investigators that he was not going to sit still while all these people were being brought in from EEOC. He reported he had a similar problem with the Philadelphia Regional Office and a related problem in Boston, where the Regional Director was hiring people who had worked for labor unions. Mr. Redenius said his problem was the mix of employees and that the bad management features of EEOC might be imported into MSPB. Mr. Redenius also said it was his policy to have a mix of experience and grade levels among attorneys at MSPB. Ms. Bradley said that such a policy was important for the future of the organization. Mr. Lucero, however, said he was never informed that there was such a

policy. He said that such a policy would undercut the ability of the regional offices to process their cases in a timely manner. A number of employees of the San Francisco Regional Office expressed the belief that EEOC employees were considered too liberal for the conservative Chairman, Mr. Ellingwood.

Ms. Bradley told Mr. Lucero that Mr. Redenius was coming out to San Francisco to interview Mr. Lucero's candidates. While Mr. Redenius did come to San Francisco to interview two of the candidates selected by Mr. Lucero, he made no similar visits to Philadelphia or Boston.

19. Mr. Redenius arrived in San Francisco late on July 26, 1982, and interviewed Ms. A and Ms. Gee on July 27. He told Mr. Lucero that he liked Ms. Gee better and that he was concerned about too many appointees coming from EEOC. Mr. Redenius said he did not believe that Ms. A had the necessary professional experience and that other applicants should be considered. Mr. Redenius denies that he ordered Mr. Lucero to withdraw his offer to Ms. A. Nevertheless, Mr. Lucero understood that to be the message and telephoned Ms. A to tell her that he was forced by headquarters to withdraw his offer. Mr. Lucero then offered his third slot to LuNell Anderson instead. Ms. Anderson was a 33-year old lawyer who had worked as a GS-14 for the Board of Immigration Appeals of the Department of Justice. She had worked for the government since 1975. She was offered a position as a GS-13.

20. The resume of Gretchen Thomas arrived in the mail at the San Francisco Regional Office on July 26, 1982. This was just prior to Mr. Redenius' visit. Neither Mr. Redenius nor Mr. Lucero can remember whether Mr. Redenius brought a copy of Ms. Thomas' resume to San Francisco with him. Both suggest it is possible. At the time, no GS-11 position had been advertised and none was being considered in the San Francisco Regional Office.

21. After Mr. Redenius' visit, Mr. Lucero was angry and upset. He was upset because he had to withdraw the offer he had already made to Ms. A. Mr. Lucero was upset because Mr. Redenius was undercutting Mr. Lucero's authority. Mr. Lucero felt that Mr. Redenius was involving himself in the hiring decisions of the San Francisco office, prerogatives which Mr. Lucero had been led to believe belonged to him. And, Mr. Lucero was upset because he felt pressure to hire Gretchen Thomas. When Ms. Thomas' resume arrived on July 26, Mr. Lucero called Ms. Bradley and asked whether Gretchen Thomas was a "must hire". Ms. Bradley recognized that this was an unusual question. Indeed, it was the first and only time in her career as a manager that this question had been asked. She told Mr. Lucero she would get back to him.

22. Ms. Bradley then had a meeting with Mr. Redenius. While neither Ms. Bradley nor Mr. Redenius can pin down the exact date, it occurred sometime between the time Mr. Redenius returned to Washington on July 28 and August 16, the day the San Francisco office sent the request for the appointment of Gretchen Thomas into headquarters. Neither participant in the meeting has a clear recollection of what was said. Ms. Bradley did say it would be

uncharacteristic of Mr. Redenius to order her to tell Mr. Lucero to hire Ms. Thomas. Mr. Redenius said, "I'm much too cautious" to say who must be hired. Nevertheless, immediately after the meeting, ~~Ms. Bradley called Mr. Lucero to tell him that Ms. Thomas was a "must hire" but that an additional slot would be provided to San Francisco, so that Mr. Lucero would not have to renege on another commitment.~~ Both Mr. Redenius and Ms. Bradley state that this extra slot was added to mollify Mr. Lucero. Clearly, Mr. Lucero was delighted to receive the additional staff slot because he needed the people to process his cases. He was concerned, however, that Ms. Thomas was not able, due to her grade, to adjudicate air traffic controller and other removal cases. Mr. Redenius told Subcommittee investigators that ~~Ms. Bradley misunderstood his instructions and the message that Ms. Thomas was a "must hire" was Ms. Bradley's mistake.~~ Ms. Bradley ended her conversation with Mr. Lucero by saying, "I guess this is the price you have to pay for nice office space," referring to the fact that Ms. Thomas' husband, Edwin, had arranged better office space for MSPB in San Francisco. No vacancy announcement had been made for a GS-11 position, the grade being offered to Ms. Thomas, and consequently, no other applicants for a GS-11 position were considered. Mr. Lucero did interview Ms. Thomas during the week of August 2, 1982. However, he retained no notes of that interview. In answer to the question of why Ms. Thomas was hired for a position especially created for her, Paul E. Trayers, Legislative Counsel to MSPB, stated in a letter to Chairwoman Schroeder on April 3, 1984,

Mrs. Thomas was one of four applicants selected for newly established attorney positions in the San Francisco Regional Office. She was chosen consistent with the Board's overall appointment plan to hire candidates with diversified backgrounds and experience levels who could fill various attorney-examiner grades in that office. That assessment was based on the Board's obligation to adjudicate not only the expected ATC [air traffic controller] appeals but also the relatively routine appeals which would otherwise constitute the bulk of the regional office's case load. It was incumbent on the Board to distribute its resources in a cost-effective manner which required balancing the need to process adverse action appeals by experienced attorney-examiners and routine cases by entry level attorneys.

It is in this context that Mr. Redenius became involved in the hiring practices of several regional offices including the San Francisco Regional office. Because of his concern that these recruiting goals were not being adequately addressed in those offices, he reviewed some of the applications personally and became involved in interviewing several candidates. His involvement in San Francisco led him to dissuade Mr. Lucero from hiring some of the applicants and to

reconsider others. He also concluded based on previous backlogged problems in San Francisco that an additional attorney-examiner position should be allocated.

23. When the paperwork for Ms. Thomas came to Washington on August 16, 1982, E. Al Simpson, Director of the Operations Division of the Office of Personnel, reviewed it for the GS-11 appointment. The Federal Personnel Manual, published by OPM, requires the hiring of most entry level attorneys as GS-9s (Appendix N). Individuals can only be hired at GS-11 if they meet a superior law student requirement, including "Academic standing in the upper third of the law school graduating class." The resume of Ms. Thomas stated that she "graduated in approximately top third of class." Neither the San Francisco office nor headquarters of MSPB made any effort to verify the accuracy of this claim. Due to privacy considerations, Subcommittee investigators were unable to verify this claim, as well. Mr. Frederick L. Foley, the Director of the Office of Personnel, states that hiring was going on at such a rapid pace during August of 1982 that it was impossible to verify the qualifications of any applicant. The job of the Personnel Office was to check to make sure the qualifications on paper were sufficient to meet the regulatory requirements.

24. Gretchen Thomas, Samuel Vitaro, LuNell Anderson, and Jennifer Gee all entered on duty on September 5, 1982. Ms. Thomas' initial pay was \$23,566. Mr. Vitaro was a GS-14, Ms. Anderson and Ms. Gee were GS-13s. Ms. Thomas was the only permanent GS-11 attorney in the agency nationwide. All reported to Washington for two days of training at a "refresher course for federal attorneys in the art of writing clearly and succinctly with a review of legal citation as found in the Harvard Bluebook. Course will aid in improving employee skills in legal writing and citing the law." Ms. Thomas received a periodic within grade increase in September 1983 and was promoted to a GS-12 on October 2, 1983. This raised Ms. Thomas' pay from \$25,325 to \$29,374. Both Ms. Anderson and Ms. Gee had expected promotions around this time, but did not receive them until March 25, 1984, and April 15, 1984, respectively. These promotions occurred simultaneously with the advent of this investigation. Ms. Thomas received her performance appraisal on September 2, 1983, which rated her as "Fully Satisfactory", the middle rating on a five point scale (Appendix O). Mr. Lucero, Ms. Bradley, and Mr. Redenius all agree that it was the decision of Mr. Lucero alone to promote Gretchen Thomas.

25. As of April 4, 1984, Mr. Vitaro, Ms. Gee, Ms. Anderson, and Ms. Thomas continue to work at the San Francisco Regional Office. Mr. Lucero remains Regional Director, although Mr. Redenius told Subcommittee investigators that he had been planning on firing Mr. Lucero and that this investigation would probably prevent him from doing so.

LIST OF APPENDICES

- A Merit system principles (5 U.S.C. 2301).
- B Letter from Rep. Pat Schroeder, Chairwoman, Subcommittee on Civil Service, to A. Luis Lucero, Regional Director, MSPB San Francisco Region, March 20, 1984.
- C Letter from Paul E. Trayers, Legislative Counsel to Merit Systems Protection Board, to Rep. Pat Schroeder, March 30, 1984.
- D Letter from Paul E. Trayers, Legislative Counsel to Merit Systems Protection Board, to Rep. Pat Schroeder, April 3, 1984.
- E List of employees at San Francisco Regional Office, MSPB, March 28, 1984.
- F Biographical and Financial Information concerning Herbert E. Ellingwood, submitted to Committee on Governmental Affairs, United States Senate, March 18, 1982.
- G Correspondence between the White House and Catholic University concerning internship of Gretchen Thomas, Fall, 1981.
- H SF-171 and resume of Gretchen W. Thomas dated, June 29, 1982.
- I Lanphear v. Prokop, 703 F.2d 1311 (1983).
- J Memorandum of Frederick L. Foley, Acting Director, Personnel Management Division, to Regional Directors and Administrative Officers and Assistants, MSPB, concerning recruitment of attorney-examiners, March 9, 1982.
- K Federal Personnel Manual Letter 302-5 on Exemption of Attorney Positions from Procedural Requirements for Appointments in the Excepted Service, containing Memorandum for Alan K. Campbell, Director of Office of Personnel Management, from Assistant Attorney General John M. Harmon, April 10, 1979.
- L Merit Systems Protection Board Vacancy Announcement 82-10, for Attorney-Examiners, GS-905-12/13/14, at San Francisco Regional Office, April 2, 1982.

- M Merit Systems Protection Board Order No. 1412.1,
concerning policy and procedures for the employment and
advancement of attorneys. February 2, 1981.
- N Subchapter 3 of Chapter 930, Federal Personnel Manual,
"Hiring Pattern for Entrance-Level Attorney and Law
Clerk Positions," December 31, 1980.
- O Performance Appraisal of Gretchen W. Thomas,
Attorney-Examiner, GS-11, San Francisco Regional Office,
Merit Systems Protection Board, September 2, 1983.

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CHAPTER 23—MERIT SYSTEM PRINCIPLES

- Sec.
2301. Merit system principles.
2302. Prohibited personnel practices.
2303. Prohibited personnel practices in the Federal Bureau of Investigation.
2304. Responsibility of the General Accounting Office.
2305. Coordination with certain other provisions of law.

§ 2301. Merit system principles

- (a) This section shall apply to—
 (1) an Executive agency;
 (2) the Administrative Office of the United States Courts; and
 (3) the Government Printing Office.
- (b) Federal personnel management should be implemented consistent with the following merit system principles:
- (1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.
- (2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.
- (3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.
- (4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.
- (5) The Federal work force should be used efficiently and effectively.
- (6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.
- (7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

- (8) Employees should be—
 - (A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and
 - (B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.
- (9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—
 - (A) a violation of any law, rule, or regulation, or
 - (B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
- (c) In administering the provisions of this chapter—
 - (1) with respect to any agency (as defined in section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and
 - (2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives; which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles. (Pub. L. 95-454, Oct. 13, 1978, 92 Stat. 1113.)

PATRICIA SCHROEDER, COLO. CHAIRWOMAN

MORRIS E. UDALL, ARIZ.
BATE HALL, IND.
GERRY SMORSE, MINN.CHARLES PASHAYAN, JR., CALIF.
FRANK R. WOLF, VA.

U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515

TELEPHONE (202) 225-4026

March 20, 1984

ALL FBI INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-30-2007 BY AUC 60324/BAU/STP/cld

Mr. A. Luis Lucero
Regional Director
U.S. Merit Systems Protection Board
525 Market Street
San Francisco, California 94105

Dear Mr. Lucero:

The House Civil Service Subcommittee is extremely interested in the circumstances surrounding the employment of Ms. Gretchen Thomas, an attorney-examiner with the San Francisco Regional Office of the Merit Systems Protection Board. We request copies of all materials related to the hiring of Ms. Thomas for this position. Specifically, please provide the following information:

- 1) Any documentation that established the job including an explanation of how the job was established and who established it.
- 2) Whether this was an existing position that became vacant or a newly created slot. If it was an existing position, please provide information on who held the job previously and why and when this individual left.
- 3) A copy of the SF 52 and any notes, records, or correspondence associated with the Request for Personnel Action (SF 52).
- 4) A copy of the job announcement for this particular position and copies of all other job announcements for all similar positions in the San Francisco Regional Office during the last two years.
- 5) A copy of the position description with the OF-8 cover form.
- 6) A copy of Ms. Thomas' application, her SF-171, and all other supporting documentation and records.
- 7) A copy of all other applications for the position, the SF-171's of these applicants, and any supporting documentation and records.
- 8) A complete description of the selection process involved and a copy of the MSPB regulations governing selections under FPM Chapter 335.

Mr. A. Luis Lucero
Regional Director
U.S. Merit Systems Protection Board
March 20, 1984
Page 2

- 9) A copy of the crediting plan for the position and any documentation that supports the validity of this crediting plan including a job analysis and any pilot tests with the crediting plan.
- 10) Which individual developed the crediting plan.
- 11) The individual or individuals who rated Ms. Thomas' application, as well as the individual or individuals who rated each of the other applications.
- 12) A description of how Ms. Thomas' application was received. Please provide a complete list of all individuals within MSPB who had contact with Ms. Thomas during the application and selection process indicating the type of contact involved.
- 13) A complete description of the distribution of the job announcement including a list of every individual and group sent an announcement and where and when each announcement was posted.
- 14) A copy of the recruiting plan for the announcement.
- 15) The raw scores and final ratings for each applicant and any notes and documents associated with the rating and ranking process.
- 16) The identity of each individual interviewed for the job and the location and date each interview took place. The identity of the MSPB official who conducted each interview. Please provide copies of all interview notes and records.
- 17) Copies of all letters and forms that went out to those who applied regarding the selection or non-selection for the position; include copies of all correspondence with Ms. Thomas.
- 18) A description of the date and format in which you notified the headquarters of MSPB of the selection of Ms. Thomas. Please provide copies of any materials related to this notification.
- 19) Copies, records or notes of all communication between the regional office and anyone pertaining to the application and hiring of Ms. Thomas including anything from Edwin Meese and Herbert Ellingwood.

Mr. A. Luis Lucero
Regional Director
U.S. Merit Systems Protection Board
March 20, 1984
Page 3

20) A complete explanation of why Ms. Thomas was chosen over all other applicants.

I ask that we receive this material no later than Friday, March 30, 1984. If you have any questions concerning this request, please contact Ellen Battistelli at 202-225-4025.

Sincerely,

PATRICIA SCHROEDER
Chairwoman



U.S. MERIT SYSTEMS PROTECTION BOARD
Washington, D.C. 20419

March 30, 1984

Honorable Patricia Schroeder
Chairwoman
Subcommittee on Civil Service
Committee on Post Office
and Civil Service
U.S. House of Representatives
Washington, D.C. 20515

Dear Madam Chairwoman:

Your letter of March 20 to Mr. A. Luis Lucero, Regional Director of the San Francisco Regional Office, has been referred to me for reply. Inasmuch as various Board offices were involved in preparing responses to your questions and to facilitate a prompt response, it was determined that this office would be the appropriate focus for your inquiries.

In response to each inquiry, the following information is provided:

1. Any documentation that established the job including an explanation of how the job was established and who established it.

Recruitment for attorney-examiners and support staff in all regional offices commenced in March, 1982. The increase was necessary to process the over 11,000 Air Traffic Controller appeals filed in late 1981. Jacqueline R. Bradley, Assistant Managing Director for Regional Operations, advised each Regional Director how many positions they would be able to fill once a supplemental appropriations bill was enacted. Each director had the discretion to determine how his allotment would be filled, based on the timing of the availability of funds. The San Francisco Regional Office was originally authorized ten positions. However, an additional position was added based on two factors; the late passage of the supplemental which permitted the Board to allot another vacancy in San Francisco, and previous problems with backlogged cases in that office in comparison to other regions.

2. Whether this was an existing position that became vacant or a newly created slot. If it was an existing position, please provide information on who held the job previously and why and when this individual left.

No attorney-examiner vacancies in the San Francisco Regional Office existed when the new positions were allocated, four of which were attorney-examiner positions. Ms. Thomas was hired to one of the new positions during the ATC staff buildup.

3. A copy of the SF 52 and any notes, records, or correspondence associated with the Request for Personnel Action (SF 52).

We have attached a copy of the SF-52, Request for Personnel Action. No other notes, records or correspondence are in the Office of Personnel or the San Francisco Regional Office.

4. A copy of the job announcement for this particular position and copies of all other job announcements for all similar positions in the San Francisco Regional Office during the last two years.

A copy of Vacancy Announcement No. 82-10, which served as a notice in the San Francisco metropolitan area that the Board was recruiting for attorney positions, is attached. The announcement remained open until all attorney positions in the San Francisco Regional Office were filled. No other announcements have been issued in the San Francisco area within the last two years.

5. A copy of the position description with the OF-8 cover form.

Attached is a copy of the position description, with OF-8 Cover Sheet, for Ms. Thomas' initial position with the Merit Systems Protection Board.

6. A copy of Ms. Thomas' application, her SF-171, and all other supporting documentation and records.

Ms. Gretchen Thomas' SF-171, Personal Qualifications Statement, is attached with all other supporting records including her resume.

7. A copy of all other applications for the position, the SF-171's of these applicants, and any supporting documentation and records.

All applications received under Vacancy Announcement No. 82-10 are attached with other documents provided by the candidates. Applicant lists are also attached.

8. A complete description of the selection process involved and a copy of the MSPB regulations governing selections under FPM Chapter 335.

Attorney positions are in the excepted service, Schedule A, 5 CFR §213, rather than the competitive service. Only positions in the competitive service are covered by the merit promotion rules of Federal Personnel Manual Chapter 335. The Board procedures for hiring attorneys and a description of the selection process are contained in the policy statements attached: 1) Board order 1421.1 dated February 2, 1981 and 2) memorandum dated March 9, 1982 from the Director of Personnel, Frederick L. Foley to Regional Directors on the recruitment of attorney examiners.

Attachment

9. A copy of the crediting plan for the position and any documentation that supports the validity of this crediting plan including job analysis and any pilot tests with the crediting plan.

Crediting plans pertain exclusively to competitive service positions. For excepted service attorney positions, such plans are prohibited in accordance with the Department of Justice decision attached as referenced in our response to question No. 8. Selection criteria are contained in the vacancy announcement.

Nonetheless, the Board's hiring policy at that time was based on the desire to ensure a representational workforce reflecting a variety of experience levels and backgrounds. It was incumbent on the Board to ensure that routine cases would be processed by entry-level attorneys and that the complex removal cases be processed by more experienced attorneys with hearing officer or personnel type backgrounds.

Attorneys recruited at the entry level (GS-11) were not expected to have the depth of litigation background and subject-matter experience that would be required for higher graded attorneys.

10. Which individual developed the crediting plan.

For the reasons described above, there is no crediting plan as such. The selection criteria (called "ranking factors" in the vacancy announcement) were established by senior Board staff early in 1979, so that now no particular individual can be identified as the author.

11. The individual or individuals who rated Ms. Thomas' application, as well as the individual or individuals who rated each of the other applications.

The administrative officer in the San Francisco Regional Office initially screened the applications to determine whether the requirements of a law degree from an accredited institution and a bar certification were met. The applications were then evaluated and tentative selections made by the Regional Director on the basis of the selection criteria.

Mr. E. A. Simpson, Chief of Personnel Operations at Board Headquarters certified the tentatively selected candidates, including Gretchen Thomas, based on the qualification requirements in MSPB Order 1412.1, "Employment and Advancement of Excepted Service Attorneys" (attached as referenced in No. 8). Gretchen Thomas was certified qualified at the GS-11 attorney-examiner grade.

It should also be noted that Mr. Richard Redenius, the Managing Director who has been delegated operational authority over the agency by the Chairman, reviewed the credentials of Ms. Thomas along with other applicants to ensure that prospective employees had backgrounds consistent with the Board's overall hiring policy.

12. A description of how Ms. Thomas' application was received. Please provide a complete list of all individuals within MSPB who had contact with Ms. Thomas during the application and selection process indicating the type of contact involved.

Sometime in the late spring, 1982, Ms. Gretchen Thomas made a personal visit to Mr. Herbert Ellingwood, Chairman of MSPB. Ms. Thomas sought Mr. Ellingwood's guidance as a friend as to how she should proceed in the development of her legal career. Inasmuch as she worked for him when he was Deputy Counsel to the President as a volunteer intern, he advised that she should consider working in an attorney general's office or a public defender's office in order to develop litigation skills. It was at this time that she gave Mr. Ellingwood a copy of her resume.

Mr. Ellingwood then gave Mr. Redenius the resume without an endorsement of any kind. Mr. Redenius believes he had it with him during his visit to the San Francisco office in late July, 1982, and may well have passed it on to Mr. Lucero for his consideration at that time.

On July 28, 1982, the San Francisco Regional Office received from Ms. Thomas a copy of her SF-171. A copy of the SF-171, and its envelope addressed to Mr. Luis Lucero, are attached as referenced in No. 6.

Mr. Lucero recalls having at least two contacts with Ms. Thomas during the selection process. He interviewed Ms. Thomas for the vacancy during the latter part of July or early August 1982. He believes that the next contact was a telephone call advising Ms. Thomas of her tentative selection subject to Personnel Office approval of her qualifications for a GS-11 attorney-examiner position. In accordance with Board policy the Board's Personnel Office telephoned Ms. Thomas on August 17, 1982, to make the formal job offer and establish September 7, 1982 as her reporting date.

13. A complete description of the distribution of the job announcement including a list of every individual and group sent an announcement and where and when each announcement was posted.

Mr. Lawrence E. Shearer, Acting Regional Director in March and April of 1982, arranged for wide distribution of Vacancy Announcement 82-10 to local bar associations, law schools, minority and women's groups and through the standard distribution system of the Office of Personnel Management, San Francisco Regional office. Although we do not have a list of the law schools contacted, Mr. Lucero has provided an illustrative list which would likely represent the contacts made. Copies of the lists of bar associations and probable minority and women's groups used in the distribution are attached.

The San Francisco Regional Office also maintained a file of applications which were previously received for attorney-examiner positions. Mr. Shearer recalls that some of these applicants may have been contacted but is not certain.

14. A copy of the recruiting plan for the announcement.

Applications for excepted service may be received at any time, from any source, and do not need to be identified with any specific vacancy announcement. Recruiting plans are usually structured to fit a particular vacancy, community, and region on an ad-hoc basis, and are often not recorded. No record can be found of a recruiting plan for these vacancies.

As we indicated earlier, vacancy announcements are used merely to notify possible candidates for excepted service. Such vacancy announcements do not constitute a competitive selection process for positions in the excepted service.

15. The raw scores and final ratings for each applicant and any notes and documents associated with the rating and ranking process.

As discussed in our answers to No. 8 and No. 9 above, the Board is prohibited from assigning raw scores or final ratings to applicants for excepted service positions.

16. The identity of each individual interviewed for the job and the location and date each interview took place. The identity of the MSPB official who conducted each interview. Please provide copies of all interview notes and records.

Mr. Shearer, the Acting Regional Director, remembers interviewing at least Jennifer Gee, Roselyn Rosenfeld and a third person before Mr. Lucero arrived in San Francisco to assume his duties as regional director in late April, 1982. Mr. Lucero recalls recommending to Mr. Shearer that he interview Ms. Gee and Margie Valdez as he knew both of them from a prior professional association. Mr. Shearer does not recall any other interviews. He gave his interview notes to Mr. Lucero. Ms. Thomas had not applied for the attorney-examiner position before Mr. Lucero was appointed as regional director.

Mr. Redenius, in his capacity as Managing Director, also interviewed candidates in the San Francisco Regional Office including Jennifer Gee and Margie Valdez.

It should be noted that the Board was under a hiring freeze during this time because of its severely limited budget. The Board was actively recruiting, however, in anticipation of a supplemental appropriation. Candidates were being selected throughout the spring and summer with the understanding that Mr. Lucero could not hire them until the supplemental was passed. As it turned out, the supplemental was delayed until late July, which had the effect of allowing the Board to add an additional position. The new employees entered on duty in August and September, including Gretchen Thomas.

Mr. Lucero recalls interviewing the following candidates between May and June 1982 for permanent attorney-examiner positions:

LuNell Anderson	Jennifer Gee
Margie Valdez	Roselyn Rosenfeld
June Wooliver	Tom Cosentino
Krisida Jones	Joette Scorotow
Steven Anderson	Rosezella Canty-Letsome
Chester Relyea	Stephen Passek
Jeff Goodfriend	

Mr. Lucero interviewed Ms. Thomas in late July or early August 1982, as indicated by Ms. Thomas' August 7, 1982 follow-up letter. All interviews took place in San Francisco or Seattle. Other than the notes on Ms. Gee, which are attached, no other records or notes of the interviews were found.

17. Copies of all letters and forms that went out to those who applied regarding the selection or non-selection for the position; include copies of all correspondence with Ms. Thomas.

Individual letters were sent by the regional office in this case, and we were able to locate some of these (copies attached). During this period, we were experiencing our first recruiting since delegating to the Regions the authority to recruit and select employees. As a result, there was some variation in the methods and extent of regional handling. Apparently, courtesy replies to some non-selected applicants were never sent.

Attachment

18. A description of the date and format in which you notified the headquarters of MSPB of the selection of Ms. Thomas. Please provide copies of any materials related to this notification.

The San Francisco Regional Office mailed the SF-52 requesting the appointment of Ms. Thomas (attached as referenced in No. 3), to Headquarters together with the SF-171 (attached as referenced in No. 6). These were received in the Personnel Office on August 16, 1982, and only constituted notification to Headquarters of Ms. Thomas' tentative selection.

19. Copies, records or notes of all communication between the regional office and anyone pertaining to the application and hiring of Ms. Thomas including anything from Edwin Meese and Herbert Ellingwood.

There are no records or notes of communications between the San Francisco Regional Office and anyone pertaining to the application and hiring of Ms. Thomas. Neither Mr. Meese nor Mr. Ellingwood were used as references in Ms. Thomas' application. Further, Mr. Ellingwood had no involvement in the selection process aside from providing Mr. Redenius a copy of her resume.

20. A complete explanation of why Ms. Thomas was chosen over all other applicants.

Ms. Thomas was one of four applicants selected for newly established attorney positions in the San Francisco Regional Office. She was chosen consistent with the Board's overall appointment plan to hire candidates with diversified backgrounds and experience levels who could fill various attorney-examiner grades in that office. That assessment was based on the Board's obligation to adjudicate not only the expected ATC appeals but also the relatively routine appeals which would otherwise constitute the bulk of the regional office's case load. It was incumbent on the Board to distribute its resources in a cost-effective manner which required balancing the need to process adverse action appeals by experienced attorney-examiners and routine cases by entry level attorneys.

It is in this context that Mr. Redenius became involved in the hiring practices of several regional offices including the San Francisco Regional office. Because of his concerns that these recruiting goals were not being adequately addressed in those offices, he reviewed some of the applications personally and became involved in interviewing several candidates. His involvement in San Francisco led him to dissuade Mr. Lucero from hiring some of the applicants and to reconsider others. He also concluded based on previous backlogged problems in San Francisco that an additional attorney-examiner position should be allocated.

Regarding the hiring of Ms. Thomas, Ms. Bradley recollects receiving a telephone call from Mr. Lucero in late summer 1982. Mr. Lucero asked whether he had to hire Ms. Thomas. Ms. Bradley advised Mr. Lucero either in the same conversation or a later one that he was obliged to hire Ms. Thomas. Ms. Bradley was under the impression from Mr. Richard Redenius, Managing Director, that Ms. Thomas was to be hired. She does not recollect the statements which resulted in this impression. Neither Ms. Bradley nor Mr. Redenius had discussions with Mr. Ellingwood on this matter.

A question has since been raised regarding the circumstances surrounding the November, 1983 promotion of Ms. Thomas to a GS-12 level. The decision to promote her was exclusively Mr. Lucero's without any guidance from any Board official.

I hope you find this information complete and helpful. If there is any way I may be of further assistance, please contact me.

Sincerely,

Paul E. Trayers

Paul E. Trayers
Legislative Counsel

LIST OF ATTACHMENTS

- Item #3 Request for Personnel Action, SF-52.
- Item #4 Vacancy Announcement No. 82-10.
- Item #5 Position Description and OF-8 Cover Sheet
- Item #6 Ms. Gretchen Thomas' SF-171, Personal Qualification Statement, with other supporting records, such as her resume.
- Item #7 All applications received for Vacancy Announcement No. 82-10, with supporting documents, plus a list of applications received.
- Item #8 Board procedures for hiring attorneys and a description of the selection process. (Board Order 1412.1, and memorandum from the Director of Personnel on recruitment of attorney-examiners.)
- Item #13 National list of minority and women's group contacts, a local list of legal and other interested organizations, and a list of local law schools.
- Item #16 Interview notes on Ms. Gee.
- Item #17 Letters from Luis Lucero.

Attachment to EPM-Ltr 3025 (3)
The nominating or appointing authority shall select for appointment to each vacancy in the excepted service in the executive branch . . . from the qualified applicants in the same manner and under the same conditions required for the competitive service by sections 3308-3318 of this title.

Since the point system is required in the competitive service by § 3309 it seems at first blush that the excepted service must also follow such a procedure. Upon closer scrutiny, however, it may be seen that this is not the case. Section 3320 in its present form is a result of Public Law 89-554, 89th Cong., 2d Sess. (1966); 80 Stat. 422, which combined and restated for clarity §§ 9, 2/ and 20 of the 1944 Veterans' Preference Act. See § 7 of Public Law 89-554. (Section 20 merely exempts application of the Act in the Legislative and Judicial Branches as well as advice and consent positions in the Executive Branch.)

The language of § 9 of the 1944 Act reads in pertinent part as follows:

In the unclassified federal . . . civil service . . . the nominating or appointing officer or employing official shall make selection from the qualified applicants in accordance with the provisions of this act.

This language is far less suggestive that a point system is required in the excepted service than the "clarifying" language of § 3320. Further, § 9 when read with the rest of the Act, particularly § 2, shows that it was intended to require that an employee preference was to be extended to those classes of preference eligibles listed in the Act. Section 2 of the 1944 Act provides in pertinent part that with respect to applicants for Federal employment in the unclassified civil service as well as the classified civil service "preference shall be given" to preference eligibles. The method of implementing this preference was spelled out for the competitive service, i.e., the point system. However, the general direction of § 2 that a preference be granted to eligible veterans is the language controlling application of the preference in the excepted service.

2/ Section 9, first codified at 5 U.S.C. § 858, is now codified at 5 U.S.C. § 3320.

Section 3309's system was modified in 1953 to provide, among other things, that preference points would be given only to those veterans receiving a passing score on an examination. 67 Stat. 581. Before this amendment the points were added to preference eligible scores if the points would bring the veteran to the qualifying score. Significantly, it was stated in the legislative history of this amendment that the amendment would affect "the veteran in the competitive civil service system." Senate Report No. 679, 83rd Cong., 1st Sess. 1 (1953). Thus, it seems that the drafters of the Senate Report believed that the point system is not required in the excepted service.

Moreover, the essential distinction between the competitive and excepted service is that positions in the former are filled on the basis of competitive examinations while those in the latter are not. See 5 U.S.C. §§ 2102, 2103. 3/ The Act contemplates continuation of the distinction. It makes reference to the unclassified service as well as the classified service. If examinations were required in the unclassified service this would result in the positions examined for being placed in the classified service, thereby eliminating the unclassified service. Therefore, the Veterans' Preference Act's reference to unclassified service would be inaccurate if it intended that all positions filled pursuant to the Act be subject to examination. Since there was no intent to erase this distinction and since the language of the Act itself requires that points be added only to an applicant's earned rating resulting from an "examination" 4/ we must conclude that the point system is not required in the unclassified service.

In considering both the question whether the Department's attorney hiring procedure gives effect to the Veterans' Preference Act and whether OPM could require that the Department implement a numerical rating system for attorneys we now turn to a historical examination of attorney hiring and veterans' preference.

3/ These provisions also were a result of Public Law 89-554, supra. They merely carried forward, without substantive change, their predecessor provisions (22 Stat. 406) with respect to the competitive service. See section 7 of Public Law 89-554. The earlier provisions noted this key distinction between the competitive and noncompetitive service.

4/ It might be suggested that a numerical rating system does not constitute an examination. However, we conclude in the discussion that follows that it does.

History of Attorney Hiring and Veterans' Preference Since 1941

President Franklin D. Roosevelt, by Executive Order No. 8044 (Jan. 31, 1939), appointed a committee to study and make recommendations on, among other things, how civil-service procedures should apply to attorneys. In February 1941, that committee submitted its report entitled Report of the President's Committee on Civil Service Improvement, House Document No. 118, 77th Cong., 1st Sess. (1941). The report presented two major views--Plan A and Plan B-- on attorney selection procedures. 5/ Plan B recommended, at least in the case of inexperienced attorneys, that they be examined and rated competitively. Taking a contrary view, the authors of Plan A reasoned:

[I]t seems to us highly unwise to force the unique problem of the attorney positions into any general pattern simply for the sake of uniformity. Wise administration of the civil service, as of other organizations, may often indicate the need for flexibility and ad hoc adjustments, even at the cost of uniformity and symmetry

We therefore have considered and presented our recommendations on the assumption that the attorney positions present a unique problem in the professional service, which must be solved individually rather than by application of a general formula.

House Document, No. 118, supra at 32-33. Plan A's proponents thus recommended against a rating system for attorneys. They also objected to the application to attorneys of the competitive service procedure of certifying three applicants for each position to the appointing officer. See 5 U.S.C. § 3318. It was stated in this connection:

5/ Urging Plan A were Mr. Justice Reed, the committee's chairman, Mr. Justice Frankfurter, Attorney General Jackson, and Mr. Cato Dunn. Messrs. McReynolds, Leonard D. White and General Robert E. Wood, urged Plan B.

Attachment to FPM Ltr. 302-5 (6)

We feel that any mechanical ranking and certification would operate in an undesirably arbitrary manner, that the superior officer who is responsible for the appointee's work should have more voice in his selection, and that no principle of civil service or wise administration requires that there be an assumption of absolute accuracy in rating the candidates all of whom by definition are qualified to do legal work of a high order.

House Document, No. 118, supra at 38 (emphasis added). President Roosevelt in 1941 adopted Plan A in Executive Order 8743. This Executive Order is published in the United States Code under the notes and comments to 5 U.S.C. § 3301. That order directed that all attorney positions be brought into the competitive service and it created the Board of Legal Examiners which was to establish rules and procedures for attorney selection in the Federal Government. Subsection 3(d) of Executive Order No. 8743 set forth the functions of the Board as follows:

The Board in consultation with the Civil Service Commission, shall determine the regulations and procedures under this section governing the recruitment and examination of applicants for attorney positions, and the selection, appointment, promotion, and transfer of attorneys in the classified service.

The Executive Order also directed the Commission to establish a register of eligibles from which attorney positions were to be filled. And, § 3(f) of the order directed that:

registers shall not be ranked according to the ratings received by the eligibles, except that persons entitled to veteran preference . . . shall be appropriately designated thereon.

Thus, while an examining procedure was sanctioned to determine minimum attorney qualifications, a rating system was prohibited.

Attachment to FPM Ltr. 902-5 (7)

"The examination consists of a written test, an evaluation of the applicant's records, and oral examinations before the state and local boards." U.S. Board of Legal Examiners, Report to the President. 1941-1944, p. 34 (1945).

Numerical grades were not assigned upon the examination as a whole, but only upon the written test. The applicants who were recommended for inclusion upon the register were, however, given ratings of "Outstanding," "Excellent," "Good," and "Fair" on the basis of recommendations from the various examining boards. These descriptive ratings were shown upon the register list. The list also showed the length of professional experience of each individual included.

Id. at 36. The examination score determined who would be placed on the register of eligibles. The register was distributed to all government agencies and as appointing agencies they were given "unrestricted choice from among the eligibles" with respect to beginning attorney positions. Id. at 37. See also Hearing on H.R. 1025, a bill to create a Board of Legal Examiners in the Civil Service Commission, before a subcommittee of the Senate Committee on Civil Service, 78th Cong., 1st Sess. at 57-59 (1943). But at the same time the register directed the attention of appointing officers to their duty to prefer preference eligibles in making appointments. Id. at 47-48. However, there seems to have been no guidance as to how appointing officers were to fulfill this duty. Thus, veterans' preference points were added to the written examination score. This was, however, only a third of the total examining process. Moreover, the preference points were used only in the determination as to which applicants would be placed on the register of eligibles. Consequently, the points clearly benefited only those preference eligibles who received marginal examination scores and needed the points to qualify for listing on the register. Preference points were not used in the most important aspect of the employment process -- the actual appointment. Appointing agencies were merely instructed to "prefer" preference eligibles over other applicants. This preference at the appointing stage could only have been implemented by considering preference eligible status as a positive factor in the employment decision.

Attachment to FPM LTR. 302-5 (8)

Attorney Examinations Barred

The Legal Examining Board established by Executive Order No. 8743 was destined to operate for but a short time. In 1942 the Senate proposed the following amendment to the Independent Offices Appropriation Act of 1943.

[N]o part of any appropriation in this act shall be available for the salaries and expenses of the Board of Legal Examiners created in the Civil Service Commission by Executive Order No. 8743 of April 23, 1941.

88 Cong. Rec. 3822. However, this language was deleted as part of a House-Senate compromise. In lieu of this amendment, the appropriation available for the Board of Legal Examiners was limited to \$80,000 "with the understanding that such authorization [was] not to be regarded as giving permanent status to this activity and that appropriations for future years [would] be dependant upon passage by the Congress of substantive law authorizing a Board of Legal Examiners." House Conference Report No. 2259, 77th Cong., 2d Sess. (1942); and statement of House Managers 88 Cong. Rec. 5441.

As the above quoted language indicates this restriction was sought by Congressmen who believed that the Board should have been created by legislation rather than by Executive Order. Such legislation later passed the House (89 Cong. Rec. 3565) however, it subsequently died in the Senate Civil Service Committee. See 90 Cong. Rec. 2659-60.

Whether the Legal Examining Board created by Executive Order 8743 should be continued was debated in the legislative history of the Independent Offices Appropriation Act of 1944. It is there made clear that the intent of the restriction was to prohibit "any civil service examination of lawyers." 90 Cong. Rec. 2659 (1944). See also 90 Cong. Rec. 2660-61. This prohibition was based largely on the view that the Commission has no business in determining the "relative qualifications" of attorneys. 90 Cong. Rec. 2661. The premise underlying this view was that the Commission was not competent to pass on the qualification of lawyers.

90 Cong. Rec. 2661 (1944). 6/ The restriction thus became law. It reads as follows:

[N]o part of any appropriation in this Act shall be available for the salaries and expenses of the Board of Legal Examiners created in the Civil Service Commission by Executive Order Numbered 8743 of April 23, 1941.

57 Stat. 173 (June 26, 1943). 7/

A virtually identical restriction has been included in each subsequent Commission appropriation since 1944. This appropriation governing OPM's present activities, that is for fiscal year ending September 30, 1979, reads as follows:

No part of the appropriation herein made to the Civil Service Commission shall be available for the salaries and expenses of the Legal Examining Unit 8/ of the Commission established pursuant to Executive Order 9358 of July 1, 1943 [8 Fed. Reg. 9175], or any successor unit of like purpose.

Public Law 95-459, 95th Cong., 2d Sess. (1978); 92 Stat. 1007.

6/ Although it was suggested that a legal examining board for Executive Branch attorney positions be established in the Justice Department (90 Cong. Rec. 2661 (1944)) this has never been done.

7/ This restriction placed attorney positions in a peculiar situation. They were, pursuant to Executive Order No. 8743, in the competitive service. However, because of the restriction the Commission could not conduct attorney examinations. The restriction was placed in each subsequent Commission appropriation and finally in 1947 President Truman, by Executive Order 9830, placed all attorney positions in the excepted service.

8/ The reference to the "Legal Examining Unit of the Commission" rather than the Board of Legal Examiners was occasioned by Executive Order No. 9358, which vested the power of the Board in the Commission. Some members of Congress had questioned whether the Board should be continued absent specific legislation. Thus,

(Footnote 8/ continued on page 10)

Attachment to FPM Ltr. 302-5 (10)

Thus, it is plain that the Commission may not, in light of the continuing appropriation restriction, require civil service examinations for attorneys. 9/ A rating system such as has been suggested for attorney hiring is one form of a civil service examination and was frequently used to "examine" for attorney positions. This examining procedure is called an "unassembled examination."

The unassembled examinations, long used for skilled-trades positions, were adopted for use in examinations for high-grade administrative and professional positions. In the unassembled examination the competitor does not take a written examination, but is rated instead on his knowledge and experience evidenced by his education and by the positions he had previously held.

History of the Federal Civil Service: 1789 to the Present, U.S. Civil Service Commission (1941) at p. 77. The Board of Legal Examiners itself recognized such examinations for attorney positions in the civil service. U.S. Board of Legal Examiners Report, supra, pp. 14, 27 and Appendix H. In fact, one phase of the Board's examining procedures, the evaluation of the applicant's records, was an unassembled examination. Therefore, an attorney rating system amounts to a civil service examination and for that reason may not be required by OPN.

8/ continued from page 9.

Executive Order No. 9358 transferred the Board's authority to the Commission "blending action by the Congress with respect to the continuance of the Board." The 1943 appropriation restriction and subsequent restrictions, of course, barred further action by the Board.

9/ It might be argued that the Commission would not be imposing selection procedures if it only requires that agencies establish their own procedures. However, if the Commission purports to have the power of approval or rejection of such procedures this approval power would be tantamount to Commission imposition of selection procedures for attorneys.

The debators of the 1944 appropriations restriction did not fail to discern its effect on veterans' preference. Senator Burton, for example, stated that the termination of civil service examinations for attorneys would "do away with veterans' preference" with respect to those positions. 90 Cong. Rec. 2660-61 (1944). Although we agree with Senator Burton insofar as the ban on Commission examination of attorneys denies the Commission the ability to impose a numerical rating system on attorneys, we disagree with him in that we believe implementation of the Veterans' Preference Act is possible without such a system.

The Department's Present Attorney Hiring Procedures

This Department believes that it is obliged to apply the Veterans' Preference Act in some meaningful fashion with respect to attorney hiring. To that end, on all Justice Department employment applications is the question whether the applicant is claiming veteran's preference. The fact that a person is a preference eligible is weighed as a positive factor in the employment decision in the Department's regular attorney hiring program. 10/ We have been informed that this factor often accounts for the selection of the veteran over other attorney applicants, and that this is especially so when the veteran's other qualifications place him in close competition with other applicants. In such cases the veteran is preferred over other applicants with substantially equal qualifications. //

This procedure is consistent with application of the Veterans' Preference Act as regards attorney hiring since 1941. As stated above, Executive Order 8743 by prohibiting an attorney rating system resulted in a situation in which veterans' preference could be implemented only by considering it positively in the employment decision. Congress in response to the Executive Order, rather than requiring a rating system, further

10/ The Department is experimenting with a numerical rating system in its Honor Program which is geared toward the hiring of attorneys directly out of law school and accounts for approximately 15% of the Department's attorney recruitment. In this experimental program veterans do receive additional rating points. In this connection it should be noted that while OPM is barred by its appropriation legislation from implementing attorney examination systems, this bar does not extend to other agencies, not similarly restricted, that might wish to implement or experiment with rating or other examining systems in their own attorney hiring procedures.

Attachment to FPM Ltr. 302-5 (12)

restricted Commission control over attorney selection by barring the Commission from examining attorneys even to determine minimum qualifications. Thus, Congress implicitly sanctioned the implementation of the Veterans' Preference Act with regard to attorney hiring by use of a procedure such as ours.

In sum, we believe that our attorney hiring procedure gives full effect to the Veterans' Preference Act, and as we discuss above, we do not believe that OPM may require that the Department implement a numerical rating system since this is a form of civil service examination and OPM is prohibited by its appropriation restriction from requiring such examinations for attorneys.

John M. Harmon
Assistant Attorney General
Office of Legal Counsel

Merit Systems Protection Board

Vacancy Announcement



APPENDIX L

Announcement No. : 82-10
Issue Date : April 2, 1982
Closing Date : Open Until Filled
Area of Consideration: All Sources in the
San Francisco Metropolitan
Area

POSITION: Attorney-Examiner, GS-905-12/13/14

ORGANIZATION LOCATION: Merit Systems Protection Board
San Francisco Regional Office

PROMOTIONAL POTENTIAL: May have promotion potential
to GS-15

GEOGRAPHIC LOCATION: Merit Systems Protection Board
San Francisco Regional Office
525 Market St. (Rm 2400)
San Francisco, CA 94105

SALARY RANGE: GS-12, \$28,245-\$36,723 GS-14, \$39,689-\$51,596
GS-13, \$33,586-\$43,666

DUTIES AND RESPONSIBILITIES: The Merit Systems Protection Board is a quasi-judicial agency created by the Civil Service Reform Act of 1978. The appeals function is responsible for adjudicating all types of appeals from Federal employees and applicants for employment arising under the Act, e.g., removals, suspensions, reductions-in-force, reductions in pay, reemployment rights, etc., under rules and regulations of the Board, which have the effect of law.

The Board exercises two types of jurisdiction, original and appellate. The Board's original jurisdiction is over cases in which no formal agency action has been taken, and its appellate jurisdiction is over cases specified in the Reform Act where there have been prior actions within an agency.

Listed below are typical duties which may vary depending on grade level of position being filled. The incumbent receives appeals from Federal employees, former employees, applicants, and appropriate successors in interest in accordance with the Civil Service Reform Act, regulations of the Office of Personnel Management, and other laws and regulations when applicable. Whenever required procedures for effecting personnel actions are established, incumbent determines compliance or whether harmful error occurred from any non-compliance. Incumbent determines whether formal hearing is appropriate and whether it will be open to the public should an objection be made by either party. INCUMBENT CONDUCTS FORMAL HEARINGS AND WRITES DECISIONS. Position requires travel as appellate workload requires. Assignment to other appellate organizational segments on a temporary or permanent basis as part of career development may occur.

QUALIFICATION REQUIREMENTS: Applicants must have general and specialized experience as described below. The requirement is in accordance with the OPM-X-118 Handbook, available in your Personnel Office, which specifies when and how education may be substituted for the experience. Applicants must also meet, when specified, Selective Placement Factors listed below:

11 qualifications for this position are in accordance with Board qualification standards for the hiring of attorneys. ALL APPLICANTS MUST BE LAW SCHOOL GRADUATES AND HAVE BAR MEMBERSHIP. IN ADDITION THE FOLLOWING REQUIREMENTS MUST BE MET:

- 5-12 Two years of professional legal experience -or- second law degree (LL.M) plus one year of professional legal experience -or- Superior law student work plus one year of professional legal experience.
- 5-13 Three years of professional legal experience -or- second law degree (LL.M) plus two years of professional legal experience -or- Superior law student work plus two years of professional legal experience.
- 5-14 Four years of professional legal experience -or- second law degree (LL.M) plus three years of professional legal experience -or- Superior law student work plus three years of professional legal experience.

QUALITY OF EXPERIENCE: At least one year of the required experience at each grade level must be equivalent to the next lower grade for which application is made.

One year of experience in hearing/adjudicating cases, including the interpretation of laws, rules, regulations, etc., may be substituted for each year of the required professional legal experience.

SELECTION FACTORS: Applicants who meet the qualification requirements described above will be further evaluated in determining the extent to which their education, work, or related experience, training, awards or professional recognition and supervisory appraisals indicate they possess or have the potential to acquire knowledges, skills, and personal characteristics described below:

Knowledge of the established process for dispute resolution. Familiarity with Federal civil service and EEO laws, rules, regulations, and court decisions. Ability to analyze facts and develop sound conclusions and make reasoned rulings on motions, offers of proof, etc. Ability to develop case records and produce case decisions in a timely manner. Ability to establish and maintain effective working relationships. Ability to communicate effectively orally and in writing. Ability to maintain a judicial temperament and impartiality.

Factors will be applied based on requirements of grade level applied for.

TO APPLY: For each announcement under which application is made, the following must be submitted: (a) Complete Supervisory Appraisal Form attached and (b) a current completed Personal Qualifications Statement, SF-171. Rankings will be based solely on information contained in the applicant's SF-171 and the supervisory appraisal. Applications and Supervisory Appraisals must be received no later than close of business on the closing date. They should be sent to the Merit Systems Protection Board, San Francisco Regional Office, 525 Market St., Rm 2400, Attn: Vacancy No. 82-10, San Francisco, CA 94105. The necessary forms are available at the above address. For further information about the vacancy, telephone Joanne Hurst on (415) 454-9703. Applications submitted become the property of the Merit Systems Protection Board and will not be returned.

QUALIFIED APPLICANTS WILL RECEIVE CONSIDERATION WITHOUT REGARD TO SUCH NONMERIT FACTORS AS RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, POLITICAL AFFILIATION, MARITAL STATUS, NON-DISQUALIFYING HANDICAPS, MEMBERSHIP OR NON-MEMBERSHIP IN AN EMPLOYEE ORGANIZATION OR PERSONAL FAVORITISM.

PRIVACY ACT INFORMATION: The application you submit for this position contains information subject to the Privacy Act of 1974 (P.L. 93-579, 5 U.S.C. 552 a). Information regarding this act is available upon request in the Personnel Management Branch, Merit Systems Protection Board.

PERSONAL INFORMATION SUPPLEMENT

This voluntary supplement is to allow applicants to highlight those knowledges, skills and abilities which will be used to evaluate candidates for the position(s). For each of the factors, please indicate the SF-171 section(s) where you feel the factor is best demonstrated. If there are additional projects, details, work assignments or outside activities which demonstrate your ability to perform the factor, use the space provided and/or additional paper as needed for other factors. You will receive consideration even if you choose not to complete this form.

Factors that applicants will be evaluated on:

- Factor I Knowledge of the established process for dispute resolution. Demonstrated on SF-171 in Sections _____
- Factor II Familiarity with Federal civil service and EEO laws, rules, regulations, and court decisions. Demonstrated on SF-171 in Sections _____
- Factor III Ability to analyze facts and develop sound conclusions and make reasoned rulings on motions, offers of judgment, etc. Demonstrated on SF-171 in Sections _____
- Factor IV Ability to develop case records and produce case decisions in a timely manner. Demonstrated on SF-171 in Sections _____
- Factor V Ability to establish and maintain effective working relationships. Demonstrated on SF-171 in Sections _____
- Factor VI Ability to communicate effectively orally and in writing. Demonstrated on SF-171 in Sections _____
- Factor VII Ability to maintain a judicial temperament and impartiality. Demonstrated on SF-171 in Sections _____

**Merit
Systems
Protection
Board**

**ORDER
TRANSMITTAL**

No: 1412.1

Date: February 2, 1981

PERSONNEL MANAGEMENT - EXCEPTED SERVICE

Material Transmitted:

This Order establishes policy and procedures for the employment and advancement of attorneys. It also contains policy and procedures for the recruitment and employment of law clerks and legal student trainees.

Material Superseded:

None.

Filing Instructions:

File the attached material in numerical order with MSPB issuances.

J. W. Morava
J. W. Morava
Director
Office of Administration

Distribution: ALL MSPB OFFICES AND ALL SUPERVISORS

Merit
Systems
Protection
Board

ORDER

No: 1412.1

Date: February 2, 1981

PERSONNEL MANAGEMENT - EXCEPTED SERVICE

EMPLOYMENT AND ADVANCEMENT OF EXCEPTED SERVICE ATTORNEYS

1. PURPOSE. This Order establishes Merit Systems Protection Board (MSPB) policy and procedures for the recruitment, initial employment and advancement of excepted service attorneys (GS-905 series). It also contains MSPB policy and procedures for the recruitment and employment of law clerks (GS-904 series) and legal student trainees (GS-099 series).

2. REFERENCES.

a. The Civil Service Reform Act of 1978 (P.L. 95-454), which created the MSPB, encouraged increased legal expertise to administer the Act and authorized the appointment of such personnel as may be necessary to perform the functions of the Board.

b. Title 5, Code of Federal Regulations (CFR), section 302.102 provides that ". . . each appointment, position change, and removal in the excepted service shall be made in accordance with any regulations or practices that the head of the agency concerned finds necessary."

c. Federal Personnel Manual (FPM) Chapter 930, Subchapter 3 contains hiring patterns and guidelines for entrance level attorney and law clerk positions.

3. POLICY. The recruitment and development of an exemplary and representative legal staff is essential to the effective operation of the Board. Therefore, it is the policy of the Board to:

a. require that an attorney proposed for appointment possess bar membership and the necessary minimum qualifications as described in Appendix A, plus any job-related specialized qualifications required for adequate performance in the particular attorney position;

b. provide an equal employment opportunity to all qualified applicants who apply to the Board for excepted service attorney, law clerk, and legal student trainee positions;

c. consider as a positive factor in employment decisions the fact that an applicant is a preference eligible (veteran);

ORDER

No: 1412.1

d. take all excepted service personnel actions without regard to race, color, religion, sex, age, handicap, national origin, or other non-merit factor;

e. authorize high performing attorneys to receive "career ladder" promotions without further competition when applicable criteria are met (see paragraph 4); and

f. pending the issuance of an attorney rotational development program, encourage MSPB attorneys desiring assignment to another MSPB location or type of legal work to apply for such consideration under appropriate MSPB vacancy announcements or to make their desires for reassignment known to their supervisor.

4. "CAREER LADDER" PROMOTIONS. An MSPB attorney may receive a "career ladder" promotion to the next higher nonsupervisory grade in the same location and MSPB organization without competition when the following requirements are met:

a. Normal Situations. (All of the following requirements must be met.)

(1) nonsupervisory higher grade duties are available in the same location and organization where the attorney works;

(2) the attorney meets the applicable requirements for the next higher grade prescribed in Appendix A;

(3) the attorney has received an MSPB summary rating of "Fully Successful" or better in a performance appraisal which was completed since acquiring the current grade and has demonstrated the ability to adequately perform at the next higher grade level; and

(4) the immediate supervisor submits a Request for Personnel Action (Standard Form 52) through the approving manager to the Director, Personnel Management Division.

b. Exceptional Situations. The Managing Director may approve an accelerated "career ladder" promotion to avoid undue hardship or inequity for an attorney who meets all of the requirements in 4a, except for the applicable grade level qualification requirements prescribed in Appendix A. To qualify for this exception, the attorney must:

(1) be within six months of fully meeting the applicable grade level qualification requirements prescribed in Appendix A;

(2) have received an MSPB summary rating of "Meritorious" in a performance appraisal completed since acquiring the current grade; and

ORDER

No: -1412.1

(3) be recommended for an accelerated "career ladder" promotion by the immediate supervisor with concurrence by the office head.

5. RECRUITMENT ACTIONS. The following procedures apply when an attorney position is vacant and recruitment action is necessary to obtain qualified candidates.

a. First Level Supervisor. To initiate recruitment action, the first level supervisor:

1. (1) prepares an SF 52 for the position;

(2) if the position has not been classified, attaches to the SF 52 a list of the minimum duties and responsibilities commensurate with the proposed grade;

(3) for recruitment purposes, attaches to the SF 52 a separate list of any selective factors (such as trial experience or investigative experience) that are necessary and job related and that all candidates must have to adequately perform in the position;

(4) obtains approval (in Item I of the SF 52) to fill the position from the official having this delegated authority; and

(5) submits the approved SF 52 and the attachments to the Personnel Management Division.

b. Personnel Management Division. Upon receiving approval to fill the position, the Personnel Management Division takes the following actions:

(1) Classifying the Position. A job description will be prepared if the position has not been classified.

(2) Developing Selective Factors. Using the list provided by the first line supervisor, selective factors (specialized qualifications) will be prepared and coordinated with the selecting supervisor. (The Personnel Management Division is responsible for assuring that all selection devices such as rating forms and assessment forms are job related and based on an analysis of the position to be filled.)

(3) Preparation of Vacancy Announcement. When a current vacancy announcement (or a list of eligibles from a previous announcement) cannot be used, a vacancy announcement will be prepared containing the following (minimum) items:

ORDER

No: 1412.1

(a) Opening and Closing Dates. Specify three weeks unless otherwise specified by the Director of Personnel.

(b) Area of Consideration. Specify nationwide or limited to one or more geographic locations depending on the grade level, position location(s), and number of positions anticipated to be filled under the announcement.

(c) Grade and Minimum Qualification Requirements. Specify the grade (or grades), requirement for bar membership, and applicable qualification requirements contained in Appendix A of this Order.

(d) Major Duties and Responsibilities. Provide a clear statement including any selective factors (specialized qualifications).

(e) Assessment Form. Provide an assessment form for the applicant's supervisor to complete.

(f) Supplementary Information. Request applicants to provide supplementary information on the selective/quality ranking factor beyond minimum qualifications, e.g., writing sample and law school advisor's opinion of how the candidate could perform the major duties of the position.

(g) Where to Apply. Specify where and to whom the Standard Form 171 and other required data is to be sent, that the SF 171 must be received by the closing date, and that a resume will not be accepted in lieu of SF 171.

(h) Further Information. Provide name and telephone number.

(4) Distribution of Vacancy Announcements. Announcements will be distributed to appropriate MSPB organizations and to the various external organizations that will assure adequate public communications of job opportunities to all applicant populations.

6. ACTING ON APPLICATIONS.

a. The Personnel Management Division. The Personnel Management Division is responsible for:

(1) determining if applicants meet or do not meet the minimum qualification requirements;

(2) notifying those applicants who do not meet the minimum qualification requirements, or whose applications were received after the closing date, that no further consideration can be given under the announcement for those reasons;

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(3) preparing a certificate alphabetically listing those applicants who meet the minimum qualification requirements;

(4) giving the certificate, related applications, and other pertinent data to the selecting supervisor;

(5) notifying those not selected from the certificate of this fact upon return of the completed certificate (see paragraph 6(b)(5) below); and

(6) making all hiring commitments to selected applicants through personal and/or written communications (see paragraph 6(b)(5) below).

b. The Recruiting Supervisor. The recruiting supervisor is responsible for:

(1) dividing the applications received from the Personnel Management Division into two groups—those that meet only the basic qualifications required for the position are placed in one group and all of the other applications are placed in the "well-qualified" group;

(2) establishing a rating schedule based on the quality ranking factors for the position;

(3) ranking the "well-qualified" candidates through the use of the rating schedule;

(4) conducting interviews (by telephone or in-person) with the highest ranked candidates; and

(5) selecting any "well-qualified" candidate(s) and sending the following documents to the Personnel Management Division for use in making hiring commitments and for record purposes:

(a) the completed certificate indicating the names of the interviewed and selected candidate(s);

(b) the applications and supporting data used in evaluating eligible candidates; and

(c) the rating schedule used in ranking the candidates.

7. LAW CLERKS AND LEGAL STUDENT TRAINEES.

a. Law Clerks. Employment of law clerks (GS-904 series) may be made at either the GS-9 or GS-11 level; such appointments may not exceed 14 months. The

ORDER

No: 1412.1.

qualification requirements in Appendix A apply in filling law clerk positions and for determining the applicable GS grade level, except that bar membership is not required for law clerk positions.

b. Legal Student Trainees. Employment of legal student trainees (GS-099 series) is restricted to law students who have completed at least one full year of law school. Selected applicants who have not completed the second year of law school will be employed at the GS-7 level; after completion of the second year of law school, employment will be at the GS-8 level. Employment of legal student trainees will normally be confined to the summer law school vacation period. However, a small number of trainees may be employed for initial periods not-to-exceed one year if needed for longer periods by the various Board offices; such trainees may be reappointed after one year provided law school enrollment continues and performance and conduct warrants reappointment.

c. Application Process. Applications for law clerk and legal student trainee positions may be submitted at any time to the Personnel Management Division and will be retained for a six-month period. Publication of an announcement for these positions will be considered only if the number of applications received without an announcement is insufficient to provide for quality recruitment or an announcement is necessary to develop a more representative applicant recruitment pool. Supervisory interviews (by telephone or in-person) will be limited to the most promising applicants when the Board's resources are insufficient to interview all applicants.

MSPB ORDER 1412:1
APPENDIX A

MINIMUM QUALIFICATION REQUIREMENTS
FOR MSPB ATTORNEY POSITIONS

All attorney positions require bar membership plus education and experience as defined below for the several grades:

1. GS-9. The first professional law degree (LL.B or J.D.).
2. GS-11. The second professional law degree (LL.M.); or the first professional law degree (LL.B. or J.D.) plus one year of professional legal experience; or the first professional law degree (LL.B. or J.D.) plus one of the criteria for superior law student work defined below is qualifying for GS-11 attorney:
 - a. academic standing in the upper 1/3 of the law school graduating class; or
 - b. work or achievement of significance on the law school's official law review; or
 - c. special high-level honors for academic excellence in law school (e.g., election to Order of the Coif); or
 - d. winning of a moot court team which represents the law school in competition with other law schools; or
 - e. full-time or continuous participation in a legal aid program (as opposed to intermittent or casual participation); or
 - f. significant summer law clerk experience; or
 - g. other equivalent evidence of clearly superior achievement.
3. GS-12. The qualification requirements for GS-12 attorney are the same as for GS-11 and one of the following:
 - a. one year of professional legal experience at a level of difficulty comparable to GS-11; or
 - b. two years of professional legal experience, one of which must be at a level of difficulty comparable to GS-11; or
 - c. second professional law degree (LL.M.) plus one year of professional legal experience at a level of difficulty comparable to GS-11.

4. GS-13. The qualification requirements for GS-13 attorney are the first professional law degree (LL.B. or J.D.) and one of the following:

a. superior law student work or activities (see GS-11) plus two years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-12; or

b. first professional law degree (LL.B. or J.D.) plus three years of professional legal experience, at least one of which must be at a level of difficulty comparable to GS-12; or

c. second professional law degree (LL.M.) plus two years of professional experience, at least one year of which must be at a level of difficulty comparable to GS-12.

5. GS-14. The qualification requirements for GS-14 attorney are the first professional law degree (LL.B. or J.D.) and one of the following:

a. superior law student work or activities (see GS-11) plus three years of professional experience, at least one year of which must be at a level of difficulty comparable to GS-13; or

b. first professional law degree (LL.B. or J.D.) plus four years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-13; or

c. second professional law degree (LL.M.) plus three years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-13.

6. GS-15. The qualification requirements for GS-15 attorney are the first professional law degree (LL.B. or J.D.) and one of the following:

a. superior law student work or activities (see GS-11) plus four years of professional experience, at least one year of which must be at a level of difficulty comparable to GS-14; or

b. first professional law degree (LL.B. or J.D.) plus five years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-14; or

c. second professional law degree (LL.M.) plus four years of professional legal experience, at least one year of which must be at a level of difficulty comparable to GS-14.

Subchapter 3. Hiring Pattern for Entrance-Level Attorney and Law Clerk Positions

3-1. BACKGROUND

a. **Purpose.** This subchapter contains guidelines for agencies to follow in hiring attorneys into entrance-level positions classified to the General Attorney Series, GS-905, and in hiring persons into positions classified to the Law Clerk Series, GS-904. The pattern covers attorney positions for which incumbents are required to be members of the bar and law clerk positions for which incumbents need not be members of the bar.

b. **Legal basis.** This hiring pattern is issued under chapter 51 of title 5, United States Code, and is binding for positions subject to that chapter. Section 5105 of title 5 requires OPM to develop classification standards based on duties and responsibilities of positions and the qualifications required to do the work.

c. **Appointments.** (1) Except for a few positions in the competitive service, attorney positions are required to be in the excepted service.

(2) Applicants who meet all requirements except bar membership are appointed in the Law Clerk Series, GS-904. Law clerk appointments are made under section 213.3102(e) of Schedule A (see appendix C, chapter 213), and the appointee must be admitted to the bar within 14 months or be separated.

(3) The hiring pattern described below applies to appointments in the Law Clerk Series, GS-904, as well as to appointments in the General Attorney Series, GS-905.

3-2. COVERAGE

a. **Grades included.** The grades covered in the pattern are GS-9 and GS-11. For each grade covered, this subchapter describes work typically performed and the qualification requirements. The descriptions of work are illustrative only. The variety of programs and organizations in agencies makes it impractical to list all the different types of assignments possible at each level.

b. **Use of guides.** (1) The duties to be assigned are the critical factor in setting the entrance level. In using these guides each agency will find it necessary to translate the generalizations into specifics for its work, consistent with the classification standards. Of course, the basis for classification grade level determinations will be the official position-classification standards for the General Attorney Series, GS-905, and not the illustrative descriptions in this subchapter.

(2) The requirements listed are not intended to preclude agencies from hiring attorneys at a lower level even though they meet qualification requirements for a higher level. The important determinant is the grade level warranted by the duties to be performed. The possession of a degree or high academic standing alone is not a sufficient basis for appointment at a higher entrance level.

(3) These guidelines are intended primarily to cover hiring of attorneys at entrance levels. The guidelines do not preclude the employment of *experienced* attorneys at grades above the entrance levels. Attorneys without experience may, in unusual circumstances, be employed at grade GS-12, provided the applicant has advanced educational attainments substantially beyond those indicated as required for work at the GS-11 level and his/her education clearly indicates ability to perform work of the type to be assigned, for example, education beyond the first professional degree which includes courses directly pertinent to the work of the agency. The essential point in these circumstances is to assure that the person's education has enabled him/her to step into complex legal work characteristic of the GS-12 level and to operate with the degree of independence and responsibility typical of that level.

3-3. PROVISIONS OF HIRING PATTERN

a. **Positions at grade GS-9.** (1) *Duties and responsibilities.* Assignments involve legal or factual questions which range from relatively simple to dif-

ficult. Some assignments at the GS-9 level may involve relatively easy research on clear-cut issues with adequate precedents. Other legal questions at the GS-9 level are difficult because of the complexity of the facts or the different possible constructions which may be placed on either the facts or laws involved. Cases are strongly contested in formal hearings or informal negotiations by the individuals, corporations, or agencies involved. In relation to cases of this scope, GS-9 entrance-level attorneys search case reports, legal documents, periodicals, and textbooks, and prepare tentative drafts of letters, memorandums, and legal documents for use by higher-grade attorneys. They assist attorneys in charge of court cases or administrative proceedings by interviewing and selecting witnesses, preparing them to give testimony, and suggesting questions to be asked in cross-examination. Attorneys who enter at the GS-9 level work under very close supervision. They receive specific preliminary instructions, their commitment authority is very limited, and their completed written work is carefully and closely reviewed.

(2) *Qualifications required:*

(a) *For attorney positions:* Membership in the bar.

(b) *For law clerk positions:* The first professional law degree (LL.B. or J.D.) or equivalent training. Equivalent training is that training permitted in some States in lieu of attendance at a law school. To be acceptable this training must be of the kind and nature required by the State in which the bar examination is taken, or is to be taken.

b. *Positions at grade GS-11. (1) Duties and responsibilities.* Assignments involve complex and difficult legal questions requiring extensive research, analysis, and evaluation of information in controversial areas. Cases have an important impact on major private or public interests, for example, a major extension or revision in a State grant program or a substantial question on civil rights. Cases are vigorously contested by capable legal talent as, for example, in an antitrust case. In relation to cases of this scope, GS-11 entrance-level attorneys prepare legal docu-

ments for filing by drafting complaints, orders to show cause, indictments, preliminary motions, and supporting affidavits and briefs. They prepare drafts of pleadings and motions for cases in litigation. They conduct investigations to obtain facts, study legal precedents, and prepare recommendations. They assist attorneys in charge of court cases by cross-examining witnesses, and by drafting findings of fact, conclusions of law, and orders based upon the records. As with attorneys described at the GS-9 level, GS-11 entrance-level attorneys work under close supervision. They receive preliminary instructions, their commitment authority is limited, and their completed written work is carefully reviewed.

(2) *Qualifications required for attorney positions and law clerk positions:*

—The GS-9 requirement *plus* one year of professional legal experience; or

—The GS-9 requirement *plus* the second professional law degree (LL.M.) which requires one full year of graduate study; or

—The first professional law degree (LL.B. or J.D.), *provided* the applicant's record shows superior law student work or activities as demonstrated by one of the following:

—Academic standing in the upper third of the law school graduating class; or

—Work or achievement of significance on his/her law school's official law review; or

—Special high-level honors for academic excellence in law school, such as election to the Order of the Coif; or

—Winning of a moot court competition or membership on the moot court team which represents the law school in competition with other law schools; or

—Full-time or continuous participation in a legal aid program as opposed to one-time, intermittent, or casual participation; or

—Significant summer law office clerk experience; or

—Other equivalent evidence of clearly superior achievement.

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MERIT SYSTEMS PROTECTION BOARD

PERFORMANCE APPRAISAL

Name of Employee Gretchen W. Thomas	Organizational Location San Francisco Regional Office 2210
Title and Grade -Attorney-Examiner, GS-11	

The Merit Systems Protection Board's Performance Appraisal Manual (1470.2) describes the Performance Appraisal System used by MSPB personnel. MSPB Form 19 and the Manual are used by supervisors to accomplish the following:

- Step 1 RECORD the principal performance (job) elements and related performance standards before the appraisal period begins.
- Step 2 SELECT the critical performance elements before the appraisal period begins.
- Step 3 COMMUNICATE to the employee the critical and other performance elements, and related standards, before the appraisal period begins.
- Step 4 DOCUMENT (in the form of narrative statements) the employee's observed performance as measured against the standards at the end of the appraisal period.
- Step 5 ASSIGN element grades based on narrative statements of observed performance at the end of the rating period.
- Step 6 ASSIGN a summary rating based on the element grades assigned at the end of the rating period.
- Step 7 MAKE an Acceptable Level of Competence determination (non-Merit Pay System employee) or a Merit Pay determination (Merit Pay System employee) at the conclusion of the appraisal process.
- Step 8 PROVIDE feedback to the employee during and at the end of the appraisal process.
- Step 9 IDENTIFY needed skills and training and PROVIDE a factual basis for making other personnel decisions during and at the end of the appraisal process.

GUIDANCE FOR COMPLETING PERFORMANCE ELEMENT AND PERFORMANCE STANDARD SECTIONS

PERFORMANCE ELEMENTS selected must be directly related to the significant tasks identified in the current position description. For supervisors, both organizational and individual duties and responsibilities should be reflected in the elements selected.

CRITICAL ELEMENTS identified must be of sufficient importance that below standard performance requires removal and denial of a within-grade increase or a merit pay increase and may be the basis for removal from the position.

For Merit Pay System supervisors, identify DED and performance appraisal elements as critical elements, in addition to at least two other critical elements.

For all other employees, identify at least two critical elements and normally not more than a total of five critical elements.

THE PERFORMANCE STANDARD must be directly related to the applicable performance element and must clearly state how well something is to be done to warrant a "Meets Standard" element grade for the performance element. A standard should be developed jointly with the employee, if possible, and be realistic, attainable, observable, and practical to measure.

INSTRUCTIONS FOR COMPLETING PERFORMANCE APPRAISAL COMMENT AND ACHIEVEMENT STANDARD SECTIONS

WRITE NARRATIVE STATEMENTS at the end of the appraisal period, discuss them informally with the employee, and record the narrative statements (unchanged or as revised, based on the discussion) in the applicable "Performance Appraisal" block. Clearly state how well the employee met (or did not meet) the goals/objectives or other performance indicators expressed in the applicable performance standard. Be consistent with what the employee has been told about his/her performance during the appraisal period. (If there was no opportunity to perform under a standard during the appraisal period, or the employee was prevented from fully meeting a standard for reasons beyond his/her control, so state in the "Performance Appraisal" block instead of completing a narrative statement based on observed performance.)

MAKE AN ACHIEVEMENT CHECK for each performance element that is consistent with and supported by the applicable narrative statement.

If the narrative statement indicates that the applicable performance standard was not met, check the "Inadequate Performance" block.

If the narrative statement indicates that the applicable performance standard was fully met, check the "Meets Standard" block, except when actual performance clearly and consistently exceeds the standard (as evidenced by specific supportive documentation in the narrative statement), check the "Exceeds Standard" block.

The "Exceeds" block is used only to indicate when an Incentive Award recommendation based on performance is appropriate. In such instances, the supervisor checks the "Exceeds" block (in addition to the "Meets Standard" block) and initiates appropriate award or recognition action as prescribed in the Board's Awards and Recognition Manual.

Check the "No Grade Assigned" block when the employee did not have a full opportunity to perform under a standard or was prevented from meeting the standard for reasons beyond the employee's control.

				Element Grades			
Performance Elements	Critical (S)	Performance Standards	Performance Appraisal	Inadequate Performance	Meets Standard	Exceeds Standard	Far Exceeds
1. <u>Quality Decisions</u>	X		b6 b7C				
a. Knowledge: Knowledge of the American legal system and established process for dispute resolution; familiarity with applicable laws, rules, regulations, court decisions, Board decisions and policies.		Decisions correctly cite and apply applicable statutory and regulatory authorities, controlling case law, and Board precedent.					
b. Analytical ability: From a given set of circumstances, recognizes issues, ascertains material facts, draws sound conclusions by application of controlling principles.		Decisions identify all material issues and evidence, describe the application of burdens of proof, and explain reasons and bases for findings of fact and conclusions of law.					
c. Writing ability: Writes with a well organized, clear, readable style, in language appropriate to the audience.		Decisions do not contain significant grammatical, spelling, or typographical errors, i.e., not more than 1 error every 2 pages. Decisions are clearly written so that readers can understand the decisions and the bases on which they are based.					

				Element Grades			
Performance Elements	Critical (S)	Performance Standards	Performance Appraisal	Inadequate Performance	Meets Standard	Exceeds Standard	Far Exceeds
2. <u>Hearings</u>	X		b6 b7C				
a. Independence: makes rulings and controls proceedings without supervision.		percent of hearings are conducted without the need of supervisory direction.					
b. Judgment: makes reasoned rulings on motions, offers of proof, objections, and submissions of evidence.		Properly applies evidentiary principles and assures compliance with due process requirements. Maintains control of proceedings without undue exercise of authority.					
c. Demeanor: is courteous to the participants and maintains a judicial temperament.		Not more than 2 legitimate complaints received, or instances noted, of discourteous behavior or failure to control temper during a hearing. Is not "rattled" by boisterous, aggressive behavior by the parties.					

				Element Grades			
Performance Elements	Critical (S) X	Performance Standards	Performance Appraisal	Inadequate Performance	Meets Standard	Exceeds Standard	Far Exceeds Standard
1. <u>Overall Processing</u>			b6 b7C				
a. Time control: Keeps cases moving at all stages. Follows up on matters requiring periodic review.		No undue or inordinate delays in case processing steps, unless prevented by circumstances beyond his/her control. During period when the Board's 120 day time limit is in force, submit draft decision, or otherwise completes processing of cases, so that 95 percent of decisions will be issued in 120 days, unless prevented by circumstances beyond his/her control.					
b. Production: Issues decisions in the average to complex range in all types of appeals.		50-75 decisions (other than routine dismissals where Ap withdraws appeal or Ag cancels action) per year depending on the complexity of the case, the number of hearings, and the amount of travel.					
c. Case record: Responsible for establishment of official case file, including documentation of all rulings and significant actions taken on the case.		In all cases, submits case file which contains sufficient evidence to support findings made in the decision. Ensures case files are organized and maintained in manner prescribed by the Board.					

J. (Continued).

d. Application of
adjudicatory procedures:
Applies Board's pub-
lished adjudicatory
procedures correctly
and consistently.

Consistently applies Board's
published adjudicatory proced-
ures in ruling on motions,,
including motions for contin-
uances and those related to
the admission of evidence, the
calling of witnesses, the
prompt submission of files,
and other matters.

-4-

b6
b7C

				Element Grades			
Performance Elements	Critical (S)	Performance Standards	Performance Appraisal	Inadequate Performance	Meets Standard	Exceeds Standard	Far Exceeds Standard
4. <u>Professionalism</u>	X		b6 b7C				
a. Presence: Displays professional manner in contacts with the parties and other interested persons.		Is courteous to the parties in all interpersonal dealings and in responding to written and oral questions; demonstrates a responsive attitude. Not more than two legitimate complaints received, or instances noted, of unprofessional behavior.					
b. Impartiality: Rulings and decisions are based upon the record and controlling principles of law and Board policy rather than personal opinion.		Rulings and decisions do not reflect a bias against or a favoring of one party over another. No prohibited ex parte communications are made or accepted. Maintains the appearance as well as the fact of impartiality.					
c. Working Relationships: Communicates with supervisor, co-workers and support staff and works toward a team or unit objective. Trains less experienced staff as assigned.		Keeps supervisor informed of status so that workload problems rarely emerge because of short deadlines or administrative oversight. Trains less experienced staff as assigned. Keeps accurate case records and furnishes timely responses to requests for reports.					

Regional Director of sensitive situations. Accepts and carries out assignments designed to achieve the overall objectives of the Board.

d. Time and Attendance

Adheres to the established office policies in this area. Notifies Regional Director of any variance from established policies and the reason for the variance.

b6
b7C

PERFORMANCE EVALUATION

GENERAL INSTRUCTIONS:

Each appraisal must conclude with the assignment of one of five summary ratings, as defined below. In determining the appropriate summary rating to assign, consider all the element grades assigned based on observed performance during the appraisal period; do not consider any "To Grade Assigned" designations.

I certify that this employee's performance from 9/5/82 to 9/4/83 is

☐ **EXCEPTIONAL** Exceeds the established performance standards for all performance elements.

☐ **VERY SUCCESSFUL** Exceeds the established performance standards for all critical performance elements and exceeds most other performance elements.

☐ **GOOD SUCCESSFUL** Fully meets the established performance standards for all performance elements, but does not meet the criteria for a "Highly Successful" or "Meritorious" summary rating.

☐ **MODERATELY SATISFACTORY** Fully meets the established performance standards for all critical performance elements, but fails to meet the standard for one or more other performance elements.

☐ **UNSATISFACTORY** Fails to meet the established performance standard for one or more critical performance elements.

ACCEPTABLE LEVEL OF CONFIDENCE

(An acceptable level of confidence determination is required only when a within-grade salary increase is currently due for a non-merit Pay System employee and must be supported by the employee's most recent performance appraisal.)

In accordance with the provisions of 5 U.S.C. 5305(a) and (c) and MSPB policy, I have determined and hereby certify that this employee

☐ **IS WORKING AT AN ACCEPTABLE LEVEL OF CONFIDENCE** (based on "Fully Successful" or better)

☐ **IS NOT WORKING AT AN ACCEPTABLE LEVEL OF CONFIDENCE** (based on "Moderately Satisfactory" or "Unsatisfactory")

SUPERVISOR'S CERTIFICATION

DATE	TITLE OF SUPERVISOR	SIGNATURE OF SUPERVISOR I have discussed these ratings with the employee
9/2/83	Regional Director	A. Luis Suarez Jr.

EMPLOYEE'S CERTIFICATION

☐ My supervisor has discussed my performance evaluation with me. I understand that I will receive a copy of this form from my supervisor after the reviewing official completes his/her review.

☐ I have no comments.

☐ My comments are attached.

DATE	SIGNATURE OF EMPLOYEE
9.15.83	Gutcher, W. Thomas

REVIEWING OFFICIAL'S CERTIFICATION

☒ I concur with the supervisor's evaluation of this employee and have not made any changes.

☐ I have made appropriate changes on this form based on my independent review.

☐ I have made appropriate changes on this form based on comments furnished by the employee.

DATE	TITLE OF REVIEWING OFFICIAL	SIGNATURE OF REVIEWING OFFICIAL
9/20/83	AMDRU	Jacqueline R. Buller

NOTE: The Reviewing Official returns the original to the first level supervisor who sends it to the Personnel Management Division after making a personal copy and a copy for the employee.

b6
b7C



U.S. MERIT SYSTEMS PROTECTION BOARD
Washington, D.C. 20419

April 3, 1984

Honorable Patricia Schroeder
Chairwoman
Subcommittee on Civil Service
Committee on Post Office and
Civil Service
U.S. House of Representatives
Washington, D.C. 20515

Dear Madam Chairwoman:

As an addendum to my March 30, 1984, response to your questions regarding the Merit Systems Protection Board's hiring of Ms. Gretchen Thomas as a presiding official in our San Francisco Regional Office, I would like to provide the following information.

As stated, Ms. Thomas was hired to fill one of four (4) permanent attorney-examiner positions open in the San Francisco Regional Office during the summer of 1982. Each of these appointments took place on September 5, 1982. In addition, however, in an effort to meet the inordinately high workload in that region, the Board appointed another five (5) attorney-examiners on a temporary basis, one of which was hired at the same grade as Mrs. Thomas. The first of these was effective on September 5, 1982, with subsequent appointments during the next fiscal year on October 24, October 31, December 26 and, finally, January 2 of 1983.

Together, these appointments made it possible to process the staggering number of air traffic controller appeals which the San Francisco Regional Office received.

I hope this information is helpful to you and if you need any further information, please do not hesitate to call upon me.

Sincerely,

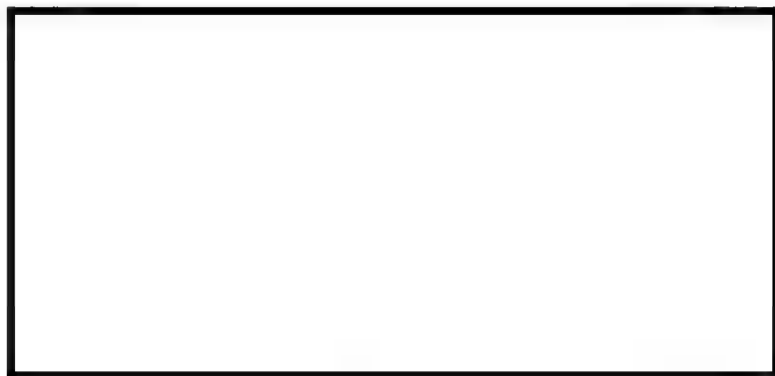
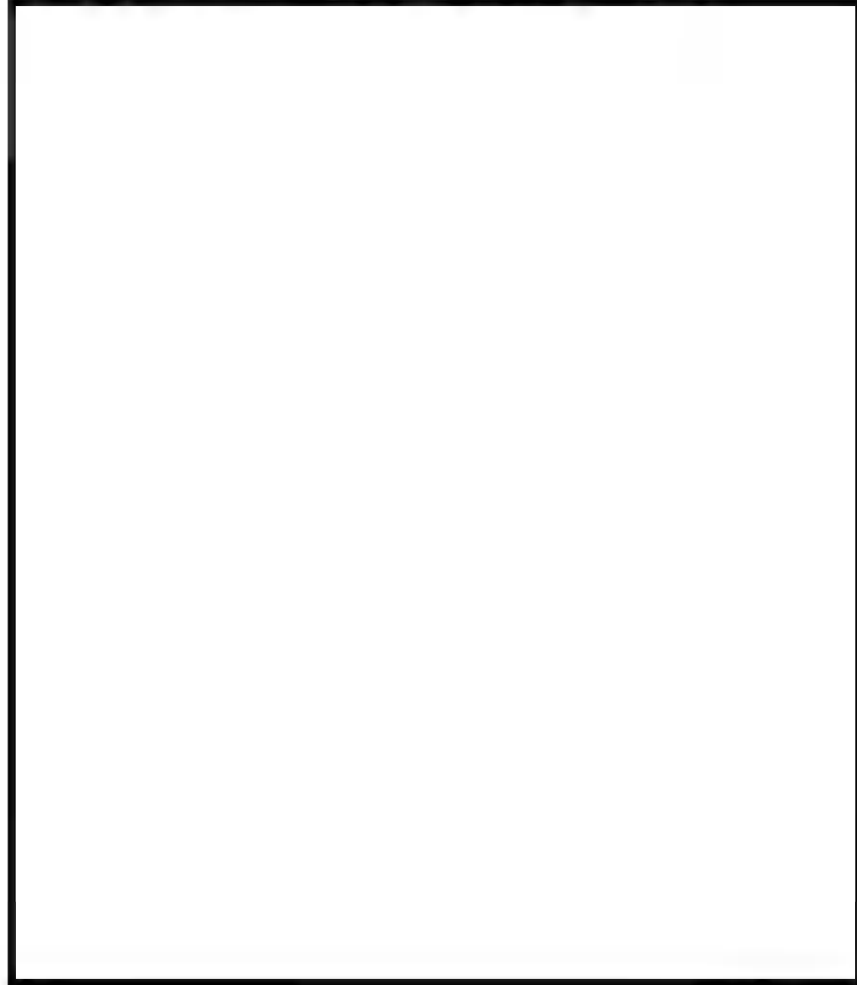
Paul E. Trayers

Paul E. Trayers
Legislative Counsel

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San Francisco Regional Office
Merit Systems Protection Board

Lucero, Aurelio L.



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Regional Director
Attorney Examiner
Attorney Examiner
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Attorney Examiner
Attorney Examiner
Attorney Examiner
Attorney Examiner
Attorney Examiner
Attorney Examiner
Secretary
(Stenography)
Legal Clerk (Typing)
Legal Clerk (Typing)
Legal Clerk (Typing)
Legal Clerk (Typing)
Student Aide

Total Employees - 21

Note:  Administrative Assistant for Chicago, has been detailed to the San Francisco Regional Office for a short period of time.

APPENDIX F

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BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES¹

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (Include any former names used.)

Answer. Herbert Eugene Ellingwood.

Question 2. Address: List current residence address and mailing address.

Answer. 6607 Briar Hill Court, McLean, Virginia 22101.

Question 3. Date and Place of Birth.

Answer. March 5, 1931, Orinway, Colorado.

Question 4. Marital Status: (Include maiden name of wife or husband's name.)

Answer. Audrey Kesler Ellingwood.

Question 5. Names and ages of children.

Answer. Edwin Bruce Ellingwood—age 18; Thomas Barry Ellingwood—age 15.

Question 6. Education: List institution(s), dates attended, degree received and date degree granted.

Answer. Aromas Grammar School—1937-1945; Salinas Union High School—1945-1949; Yale University—1949-1953—B.A. degree (major: Political Science and Economics); Stanford University Law School—1957-1960—LL.B.

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer. Deputy District Attorney—Alameda County, California—1960-1966; also Legislative Advocate for the Law and Legislative Committees, California District Attorneys' and California Peace Officers' Associations; Legislative Representative, State Bar of California—1966-1969 (Sacramento, California); Legal Affairs Secretary to Governor Ronald Reagan—Sacramento, California—February 1, 1969 to December 31, 1974; Special Assistant Attorney General, State of California—Sacramento, California—January 1, 1975 to July 1, 1979; Private Law Practice—Firm of Caldwell and Toms—Sacramento, California—July 1979 to March 1981; Deputy Counsel to the President of the United States, The White House, Washington, D.C.—March 1981 to December 1981.

Question 8. Government Experience: List any experience in, or association with Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer. All my employment has been with Federal, state or local government except for the State Bar activity (1966-1969) and the private law practice (1979-1981). (See answer No. 10 for other activity.)

trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational, or other institution.

Answer. 1979-1981—Partner in firm of Caldwell and Toms, 611 W. 6th Street, Los Angeles, California 90017.

Corporations

Vence Associates, Inc., 611 W. 6th Street, Los Angeles, California 90017—stockholder—1980-1981.

S. K. Sung, Inc., 3595 Almaden Road, San Jose, California 95118—Officer (stock not issued prior to resignation)—1980-1981.

Strawberries & Stuff, 1450 W. Colonial Parkway, Roseville, California 95678—officer, stockholder—1980-present.

Partnerships

Nellie Gail No. 1 Associates, 24882 Buckboard, Laguna Hills, California 92653—1980-present.

Giebel Petroleum & Investments, 1 Marienfeld Place, Midland, Texas 79701—1979-present.

Other

Shelbourne Estates Homeowners Association, 7575 Auburn—Folsom Road, Loomis, California 95650—Officer—1980-1981.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic charitable and other organizations.

Answer:

American Bar Association—Criminal Law Section, various committees.

Christian Legal Society—National President, 1976-1977; National Board of Directors, 1974-1975; member, 1967-present.

State Bar of California—Member, Committee on Criminal Law and Procedure, 1970-1973.

Alameda County Bar Association, 1960-1981.

Sacramento County Bar Association.

Placer County Bar Association.

California Organized Crime Control Commission, 1977-1978 (member).

Peace Officers Standards and Training Advisory Committee, member, 1980-1981.

California Peace Officers' Association—Federal Law Enforcement Assistance Act Committee; Standards and Ethics Committee.

California District Attorneys' Association—Federal Law Enforcement Assistance Act Committee.

California Sheriffs' Association, 1960-1981.

University of California, School of Criminology—Federal Law Enforcement Assistance Act Committee.

Delegate, White House Conference on Children, 1970.

Delegate, National Conference on the Judiciary, 1971.

Delegate to the National Conference on Corrections, 1971.

Delegate, National Conference on Criminal Justice, 1973.

Member, California Council on Criminal Justice, 1969-1975; Member, Riots and Disorders Task Force, 1969-1970; Chairman, Judicial Process Task Force, 1970-1974; Member, Executive Committee, 1970-1975; Chairman, Planning Allocation Committee, 1971-1974.

Member, California State Communications Advisory Board, 1970-1974.

California Commission on Peace Officer Standards and Training, Attorney General's Representative, 1975-1979.

Project Safer California, Member—Judicial Process Personnel and Institution, 1974.

Member, Advisory Board to the Joint Legislative Committee for Revision of the Penal Code (California).

California State Bar Conference on Trial and Appellate Court Reform, Participant.

Member of and Speaker at California Governor's Traffic Safety Conference, 1965.

Member of Citizens' Advisory Committee to the Joint Legislative Committee for Revision of the Penal Code.

Member of the Governmental Affairs Council, 1980.

¹ Financial information retained in committee files.

Member, Academic Board, California Civil Disorder Management Course, California Specialized Training Institute, Camp San Luis Obispo, 1971-1974.
 Member, Attorney General's Task Force on Parole and Probation, 1971-1972.
 Member, Citizen Advisory Committee, Correctional System Study, Board of Corrections, 1970-1974.

Advisor, California Assembly Criminal Justice Cost Project, 1970-1971.
 Advisor, California Chief Justice's Select Committee on Trial Court Delay, 1971-1972.

Editor of Digest of Legislation Affecting Criminal Law and Procedure, 1972-1976.

California Governor's Select Committee on Law Enforcement Problems, Member, Steering Committee, 1972-1973.

Instructor, Criminal Law, Chabot College, 1964.

California Christian Committee for Israel, Member, 1976-present.

Member, Advisory Board of the Institute of Continuing Studies, California State University, 1976-1981.

Vice President of Laws At Work—1979.

Regent, CBN University, Virginia Beach, Virginia, 1979-present.

Teen Challenge—Advisory Council Member, Santa Cruz, California, 1962-1981.

Monte Vista Christian High School Board of Trustees, Watsonville, California, 1960-present.

Bethany Bible College, Santa Cruz, California—College Council, Vice Chairman, 1965-1968; Chairman, 1968-1974; Development Cabinet, Chairman, 1968-1970; Member, 1975-1980.

Roseville Assembly of God Church, Roseville, California, Elder.

Member, Association of the United States Army, Mother Lode Chapter, 1970-1974.

Member, Board of Directors of the Alpha Foundation, a scientific, literary and educational corporation established to research, develop and sponsor community impact programs, 1972-1981.

Deputy District Commander of the Royal Rangers. This is a boys' group within the Assemblies of God, a religious organization; it is similar to Boy Scouts. As Deputy District Commander, I was responsible for the program in 350 churches during the 1960s.

Commonwealth Club, San Francisco, California.

Comstock Club, Sacramento, California.

California Junior Statesmen of America Foundation; at various times, I was Trustee, Secretary, and a Vice President; I was Chairman of the Summer School in 1965, 1966, 1967.

California State Department of Education, Advisory Committee on Guidelines for Moral Instruction in California Schools.

Sunrise Christian Schools, Roseville, California, Member Board of Trustees, 1976-1981.

Question 11. Political Affiliations and Activities: List all offices with a political party of any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Answer. Registered Republican; Precinct Captain, Alameda County, California, 1960-1966; Placer County Republican Central Committee, member, 1977-1981; Chairman, 1979-1980; California Republican State Central Committee, 1977-1981; Alternate Delegate, National Republican Convention, 1976; Delegate at Large, National Republican Convention, 1980; Small financial contributions have been made to each of the above organizations and to various candidates, partisan and non-partisan, over the last 10 years. During the last election, I supported Congressman Gene Chappie and President Reagan.

Question 12. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Scholarships

Yale University; B.P.O.E.; Sears-Roebuck.

Special Recognition

California Scholarship Federation; California Peace Officers' Association; California State Sheriffs' Association; California District Attorneys' Association; Peace Officers Research Association of California; Oakland California Police Department; Alameda County, California; Port of Oakland; California Junior Chamber of Commerce; Laws At Work; Los Angeles Board of Supervisors; Los Angeles City Council; Christian Legal Society; Religious Heritage of America;

Association of Christian Schools International; Office of the California Attorney General; California Legislature.

Question 13. Published Writings: List titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. Editor, Digest of Legislation Affecting Criminal Law and Procedure, 1972-1976.

Article: Ronald Reagan, "God, Home and Country"—Christian Life Magazine, November 1980.

Article: New Wine Magazine—"Not Guilty," October 1976; "Crime Hurt" May 1977.

Question 14. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

Answer. None.

Question 15. Selection: a. Do you know why you were chosen for this nomination by the President?

b. What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. a. I was his Legal Affairs Secretary from 1969-1974 and his Deputy Counsel during 1981. I assume he has confidence in me.

b. I have over 20 years of legal experience, almost all of which has been government. In private practice, I did some personnel law.

C. FUTURE EMPLOYMENT RELATIONSHIPS

Question 1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer. I have severed all business connections already with the exception: (1) Strawberries & Stuff, which is a Subchapter S Corporation, owned by me and my immediate family; it was established to be an import/export business; some importing was done prior to my Federal employment. (2) The oil investment with Giebel Petroleum is a limited partnership solely for investment. (3) The Nellie Gail #1 Associates was for the building and sale of a house which has been accomplished. Less than \$6,000 is owed to me by the purchaser.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. I have no plans to pursue outside employment during Federal service except: (1) Strawberries & Stuff sales and consulting mainly in the area of art and crafts; and (2) lectures, mainly religious, not associated with government for which sometimes I receive reimbursement of expenses or honoraria.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. No.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer. My former law firm is paying off a note with Crocker Bank which was a loan to purchase the partnership. (See attached letter from Caldwell & Toms dated October 20, 1981.)

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer. None.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of

¹ The letter referred to may be found in...

client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. None.

Question 4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. I have worked on legislation during my entire career until I entered Federal service. I represented the California District Attorneys' Association, the California Peace Officers' Association, the California State Sheriffs' Association, the State Bar of California, Governor Ronald Reagan and California Attorney General Evelle Younger. In private practice I never testified, but did advise clients on their testimony before the California Legislature, but nothing before the Congress.

My former law firm had clients with issues before Federal regulatory agencies. I never made an appearance on any of these cases, but did a lot of work on Pat Boone's Aene-Statu case which was in the Federal Trade Commission. We retained Santarelli and Giner, 2033 M Street, N.W., Suite 700, Washington, D.C. 20036, for that purpose. I have had no contact with that Commission since entering Federal service.

While Deputy Counsel to the President, I did staff work on various legislative proposals, mostly involving criminal law. This did not involve any appearance before a legislative committee.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. I will withdraw from any conflict of interest.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes.

F. LEGAL MATTERS

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested, or charged or held by any federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. None, except as counsel.

Question 4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. None.

AFFIDAVIT

I, Herbert Eugene Ellingwood, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

Date: March 18, 1982.

HERBERT E. ELLINGWOOD.

Subscribed and Sworn to before me this 18th day of March, 1982.

ROBERT S. TAYLOR,

Notary Public, District of Columbia.

My Commission Expires April 14, 1980.

THE WHITE HOUSE
WASHINGTON

December 7, 1981

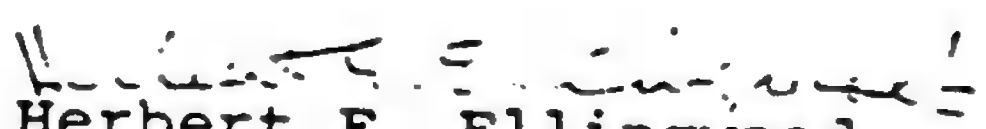
Dear Professor Wortham:

Pursuant to a plan previously submitted to you, Mrs. Gretchen Thomas has been working in this office under my supervision.

She has completed in excess of 120 hours and has done so in a satisfactory manner.

If you have any questions regarding her performance or the subject matter of her work-study, I would be happy to supply you with that information.

Sincerely,


Herbert E. Ellingwood
Deputy Counsel to the President

Leah Wortham
Assistant Professor
Catholic University
School of Law
Washington, D.C. 20064

THE
CATHOLIC UNIVERSITY
OF AMERICA
WASHINGTON D.C. 20064

OFFICE OF THE DEAN
THE COLUMBUS SCHOOL OF LAW
FOUNDED 1895
202 635-5144

September 1, 1981


Herbert E. Ellingwood, Esq.
Office of the Counsel
White House
Washington, DC 20523

Dear Mr. Ellingwood:

Thank you for agreeing to take Gretchen Thomas on as an intern. She will receive two semester hours credit for her experience. We will need another letter from you at the end of the term stating that Ms. Thomas has worked 120 hours without compensation and evaluating her performance.

I appreciate your participation in an important part of our curriculum.

Sincerely,


Leah Wortham
Assistant Professor

LW/ec

THE WHITE HOUSE
WASHINGTON

August 28, 1981

Mr. Michael F. Noone, Jr.
Associate Dean
The Columbus School of Law
The Catholic University of America
Washington, D.C. 20064

RE: Legal Internship

Dear Dean Noone:

This is to verify that Gretchen Thomas will be a legal intern for the Office of the Counsel at the White House under my supervision. She will be performing tasks of a legal nature, without compensation, for approximately eight to ten hours per week for this next semester.

If you have any questions about this, please feel free to phone me at 456-2393.

Sincerely,

Herbert E. Ellingwood
Deputy Counsel to the President

bcc: Fred Fielding
Gretchen Thomas

HEE:jsk

of the executive board. This grade will be based on the two articles written by each member.

Law Review II

2 hrs., 2 sems.
(for current staff and editorial board)

Enrollment in the course is optional. A grade of P or F will be given by the faculty moderator upon the recommendation of the executive board, based upon the comment written by each member. Grades for each associate editor will be recommended by the executive board and for each executive editor by the faculty moderator, based upon the editor's adequate fulfillment of his or her responsibilities throughout the semester.

Legal Accounting

Mr. Adams
2 hrs., 1 sem.

A survey of the elementary techniques and basic theoretical concepts of accounting. Emphasis is on those accounting principles and procedures that are relevant to the practice of law, and attention is given to the legal contexts in which lawyers are likely to confront accounting problems. The course is designed for students who are unfamiliar with accounting, and prior study or training in accounting, business, or finance is not a prerequisite.

Legal Internship

2 hrs., 1 sem.

Students may gain course credit for outside legal work with agencies, law firms, judges, or public-interest groups. The students must devote eight to ten hours per week without compensation, performing tasks of a legal nature under the supervision of an attorney. Limited to two credit hours per semester, and four credit hours per project.

Legislation

Mr. Marcin
3 hrs., 1 sem.

Through lecture and discussion, the instructor and the students examine: legislation as the chief instrument of change and innovation in the law; the pattern from which legislation emerged historically; Anglo-American and Continental theories of legislation; the form and arrangement of statutes; some mechanics of legislative drafting; the various means of

making legislation effective; and the various methods of legislative interpretation.

Local Government Law

Mr. Kaplin
2 hrs., 1 sem.

This course will examine the organization, operation, and source and extent of authority of the various types of local government units, particularly in urban areas. Consideration will be given to traditional topics, such as home rule, zoning, and boundary changes; but the emphasis will be upon more contemporary problems, such as regional planning, decentralization, local government financing, urban renewal, pollution control, and reapportionment. Special attention will be accorded the role of federal grant-in-aid programs in the solution of contemporary urban problems and to the Federal-state-local relationships which result from federal participation in urban problem solving.

Maritime Law

Mr. Mahia
2 hrs., 1 sem.

This course covers the leading principles of admiralty jurisdiction and the maritime law of the United States, including pleading and practice in admiralty cases, the maritime lien, the affreightment contract, charter parties, salvage, general and particular average, maritime torts and limitation of liability.

Mass Communications Law

Mr. Zuckman
2 hrs., 1 sem.

A research course which will consider the general issue of protection afforded by the First Amendment to the media and the specific media issues of libel, invasion of privacy, obscenity, censorship, "fair use" in copyright law, free press versus fair trial, judicial secrecy and access of the media to new sources.

Moot Court Nationals Team

2 hrs., 1 sem.

To be eligible to register, a student must be certified by the Moot Court Board and its faculty moderator. A grade of P or F will be given by the moderator upon recommendation of the Board. No more than four credits may be earned.

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DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

peals officer of Merit Systems Protection Board's Washington Field Office and denial of reappointment to that post, that of poor performance, was not the real reason for Board's treatment of him and therefore plaintiff established that he was a victim of discrimination in violation of Title VII.

Reversed and remanded with instructions.

1. Civil Rights — 9.10, 44(1)

Title VII prohibits discrimination against white males upon the same standards that it prohibits discrimination against members of a racial minority; in other words, plaintiff's ultimate burden of persuasion remains the same regardless of race. Civil Rights Act of 1964, §§ 701-718, 42 U.S.C.A. §§ 2000e to 2000e-17.

2. Civil Rights — 44(1)

In an employment discrimination suit in which employee has established prima facie case of discrimination, employer cannot meet its burden of articulating a legitimate reason for its action merely through an answer to the complaint or by argument of counsel but must clearly set forth, through introduction of admissible evidence, the reasons for employee's rejection and the explanation provided must be legally sufficient to justify a judgment for employer. Civil Rights Act of 1964, §§ 701-718, 42 U.S.C.A. §§ 2000e to 2000e-17.

1. Civil Rights — 44(1)

Federal employer's articulated reason for removal of plaintiff, a white male who had established prima facie case of racial discrimination, from his position as chief appeals officer of Merit Systems Protection Board's Washington Field Office and denial of reappointment to that post, that of poor performance, was not the real reason for Board's treatment of him and therefore plaintiff established that he was a victim of discrimination in violation of Title VII. Civil Rights Act of 1964, §§ 701-718, 42 U.S.C.A. §§ 2000e to 2000e-17.

Thomas J. LANPHEAR, Appellant,

v.

Ruth T. PROKOP, Chairperson, Merit
Systems Protection Board, et al.

No. 82-1388.

United States Court of Appeals,
District of Columbia Circuit.

Argued 12 Jan. 1983.

Decided 1 April 1983.

Plaintiff, a white male, brought suit complaining of racial discrimination in federal employment. The United States District Court for the District of Columbia, John Garrett Penn, J., dismissed the suit, and plaintiff appealed. The Court of Appeals, Wilkey, Circuit Judge, held that federal employer's articulated reason for removal of plaintiff, a white male who had established prima facie case of racial discrimination, from his position as chief ap-

Appeal from the United States District Court for the District of Columbia (D.C. Civil Action No. 81-0927).

Joseph B. Scott, with whom Irving Kator, Washington, D.C., was on brief, for appellant.

John W. Polk, Asst. U.S. Atty., with whom Stanley S. Harris, U.S. Atty., Royce C. Lamberth and R. Craig Lawrence, Asst. U.S. Attys., Evangeline W. Swift, Gen. Counsel, and Sara B. Reardon, Atty., Merit Systems Protection Bd., Washington, D.C., were on brief, for appellees.

Before ROBINSON, Chief Judge, WILKEY and GINSBURG, Circuit Judges.

Opinion for the Court filed by Circuit Judge WILKEY.

WILKEY, Circuit Judge:

Appellant Thomas Lanphear, a white male, complains of racial discrimination in federal employment in violation of Title VII of the Civil Rights Act of 1964.¹ Specifically, he claims that on account of his race he was removed from his position as Chief Appeals Officer of the Merit Systems Protection Board's Washington Field Office and thereafter denied reappointment to that post on two occasions.² The district court dismissed appellant's suit following a bench trial finding that there was a legitimate, nondiscriminatory reason for these personnel actions. We now reverse and remand with instructions to enter judgment for the appellant and to award him appropriate relief.

I. BACKGROUND

Appellant was employed for over eight years by the now defunct Civil Service

1. As amended, 42 U.S.C. §§ 2000e-2000e-17 (1976).

2. At trial appellant also claimed that his nonselection was in retaliation for recommending that a black employee in his office be promoted. That claim was rejected by the district court and has been dropped by appellant.

3. Evaluation of Employee Performance for Thomas Lanphear (Feb. 1979); Supervisory

Commission (CSC). He performed a variety of legal and administrative tasks before being competitively appointed on 1 May 1978 as Chief Appeals Officer (CAO) of the Washington Field Office, a GS-15 position. He inherited a difficult situation there and apparently did much to improve it. He substantially reduced a large backlog of cases, increased the administrative efficiency of the office, and bolstered a sagging morale. He received solid, even enthusiastic evaluations from his immediate supervisors.³

In January 1979 the adjudicatory functions of CSC were taken over by the newly created Merit Systems Protection Board (MSPB) while its management functions were largely shifted to the Office of Personnel Management. CSC employees were transferred to the new agency in a "mass change" document according to which their title, grade, and salary remained the same.⁴ Thus, appellant continued to serve as CAO in the Washington Field Office. In August of that year, however, the MSPB published a vacancy announcement for CAO positions within the agency.⁵ The announcement stated that appointments would be made "as vacancies occur," but the MSPB treated the announcement as including all CAO positions, of which there were eleven. Appellant was, thus, reduced to acting CAO and had to hope for reappointment under the new regime.

In February 1980, before the new CAOs were selected, Ruth Prokop, chairwoman of the MSPB, issued an affirmative action mandate directing her subordinates to achieve a representative workforce. "I am committed to this result," she stressed.

Appraisal for Thomas Lanphear (Oct. 1979); Applicant Appraisal Form for Thomas Lanphear (May 1980), reprinted in Joint Appendix (JA) at 47-53.

4. Reprinted in JA at 54.

5. Vacancy Announcement 79-34 (20 Aug. 1979), reprinted in JA at 41.

Thus, your performance in this area will be measured by the degree that you successfully achieve the Board's goals in the organizational unit for which you are responsible.⁶

Also during the pendency of the CAO selection procedures, the MSPB was developing an official affirmative action plan which called for hiring a black male CAO in the 3rd quarter of fiscal year 1980.⁷

Appellant Lanphear was advised by his supervisor, Paul Mahoney, that he would automatically be considered for the CAO position in the Washington Field Office and need not submit an application. In fact, however, he appears not to have received any consideration, whether serious or perfunctory. No papers concerning him, not even supervisory appraisals, were given to the reviewing panel that screened candidates. He was not interviewed for the job by Mr. Redenius, the man ultimately responsible for the selection. He never even received notice of his non-selection, learning of it only indirectly through rumors; through broad hints by Redenius, who suggested he take another job but allegedly refused to confirm that he would not be reappointed as CAO; and finally through a March 1980 newsletter announcing that Samuel Flanagan, a black attorney from the Department of Justice, had been selected. One month later appellant was reassigned to the Office of Appeals at MSPB headquarters. His grade and salary remained the same.

Mr. Flanagan was chosen in an abbreviated process. Despite their alleged impor-

6. Order from Ruth Prokop to All Supervisors and Managers (8 Feb. 1980), reprinted in JA at 179.

7. Affirmative Action Plan for Fiscal Year 1980 at 37, reprinted in JA at 172, 212. See also Testimony of Mr. Doherty, reprinted in Trial Transcript (TR) at 947 (even before selection was made "there was a consensus on the staff that we would probably have a black Chief Appeals Officer").

8. Stipulations of Fact (No. 81-0927) at ¶ 14, reprinted in JA at 32; Supplemental Stipulations at ¶ 1, reprinted in JA at 39. The above remarks are not intended to cast aspersions on Flanagan's qualifications, which were indisput-

ably good. But a departure from the normal consideration given a candidate is evidence that, at least in Redenius' mind, the candidate's qualifications for the job were not the only factors to be considered. This evidence is highly relevant to the question whether the reason given for not hiring appellant, i.e., his comparative lack of qualifications, was merely a pretext.

Later that year the CAO position was upgraded from GS-15 to the Senior Executive Service. A new vacancy announcement was published⁸ and both Flanagan and appellant applied for the position. Both candidates were considered by the rating panel to be highly qualified. Redenius was again the selecting official and he again chose Flanagan.

After his first failure to be reappointed as CAO of the Washington Field Office, appellant filed a complaint with the MSPB's Equal Employment Opportunity (EEO) office alleging that his non-selection was due to his race. An EEO counselor assigned to the case noted a number of reasons given by Redenius for not selecting appellant: management deficiencies leading to personnel complaints; a large backlog, including a number of unassigned cases; and sloppy, erratic production. In sum, appellant "was not up to the standards" of the job.⁹ Redenius also stated that he had not needed to interview appellant since he was already well aware of appellant's deficiencies.

On 5 February, despite Redenius' claims, the EEO office issued a recommended deci-

ably good. But a departure from the normal consideration given a candidate is evidence that, at least in Redenius' mind, the candidate's qualifications for the job were not the only factors to be considered. This evidence is highly relevant to the question whether the reason given for not hiring appellant, i.e., his comparative lack of qualifications, was merely a pretext.

9. Vacancy Announcement 80-SES-3, reprinted in JA at 344.

10. EEO Counselor's Report re Thomas Lanphear (hereinafter cited as EEO Report) at 4, reprinted in JA at 65, 66.

showing reasonable cause to believe plaintiff was discriminated against because of his race.¹¹ The MSPB refused to accept this recommendation. Appellant filed a second complaint after he was again passed over for the CAO position. When this complaint was also rejected by the MSPB, appellant brought the present action.

The district court, after a week-long trial, dismissed appellant's suit. Although recognizing that appellant had established a prima facie case of race discrimination, the court nonetheless concluded that the MSPB had a legitimate reason for eliminating appellant from consideration: "they had concluded prior to the 1980 selection of CAOs that they wanted new faces and they wanted to remove most if not all of the incumbents."¹²

II. ANALYSIS

A. Legal Framework of Title VII Discrimination Cases

In *McDonnell Douglas Corp. v. Green*,¹³ the Supreme Court set forth the basic allocation of burdens and order of presentation of proof in a Title VII discrimination case. First, plaintiff must prove a prima facie case of discrimination by a preponderance of the evidence. Second, if plaintiff succeeds in proving this prima facie case, the burden then shifts to the defendant "to articulate some legitimate, nondiscriminatory reason for the employee's rejection."¹⁴ Third, if defendant carries this burden, plaintiff is then granted an opportunity to prove by a preponderance of the evidence that the facially legitimate reason offered by the defendant was not its true reason, but rather a pretext for discrimination.¹⁵

11. See Complaint at 5, reprinted in JA at 10; Answer at 7, reprinted in JA at 18.

12. Memorandum Opinion, No. 81-0927, at 8 (D.D.C. 24 March 1982), reprinted in JA at 20, 27.

13. 411 U.S. 792, 802-805, 93 S.Ct. 1817, 1824-1825, 38 L.Ed.2d 111 (1973).

14. *Id.* at 802, 93 S.Ct. at 1824.

15. *Id.* at 804, 93 S.Ct. at 1825.

The importance of these shifting burdens was reemphasized by the Court in the recent case of *Texas Dept. of Community Affairs v. Burdine*.¹⁶ Plaintiff always bears the ultimate burden of persuading the trier of fact that the defendant intentionally discriminated against him. "The *McDonnell Douglas* division of intermediate evidentiary burdens serves to bring the litigants and the court expeditiously and fairly to this ultimate question."¹⁷

In *McDonnell Douglas* the Court also outlined a model prima facie case of discrimination. Plaintiff must show:

- (i) that he belongs to a racial minority;
- (ii) that he applied and was qualified for a job for which the employer was seeking applicants;
- (iii) that, despite his qualifications, he was rejected;
- and (iv) that, after his rejection, the position remained open and the employer continued to seek applications from persons of complainant's qualifications.¹⁸

The Court added, however, that this standard is not inflexible since "[t]he facts necessarily will vary in Title VII cases, and the specification above of the prima facie proof required from respondent is not necessarily applicable in every respect in differing factual situations."¹⁹ The *Burdine* Court, acting on this suggestion, explained the prima facie case in a much more flexible manner: plaintiff must merely prove that he applied for an available position for which he was qualified, but "was rejected under circumstances which give rise to an inference of unlawful discrimination."²⁰

[1] Title VII prohibits discrimination against white males upon the same standards that it prohibits discrimination

16. 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981).

17. *Id.* at 253, 101 S.Ct. at 1093.

18. 411 U.S. at 802, 93 S.Ct. at 1824.

19. *Id.* at 802 n. 13, 93 S.Ct. at 1824 n. 13.

20. 450 U.S. at 253, 101 S.Ct. at 1093.

against members of a racial minority.²¹ In other words, a plaintiff's ultimate burden of persuasion remains the same regardless of race: he must prove that the defendant intentionally discriminated against him. Yet this court has recognized that some adjustment is necessary in the prima facie case required of a white male.

The original *McDonnell Douglas* standard required the plaintiff to show "that he belongs to a racial minority." Membership in a socially disfavored group was the assumption on which the entire *McDonnell Douglas* analysis was predicated, for only in that context can it be stated as a general rule that the "light of common experience" would lead a factfinder to infer discriminatory motive from the unexplained hiring of an outsider rather than a group member. Whites are also a protected group under Title VII, but it defies common sense to suggest that the promotion of a black employee justifies an inference of prejudice against white co-workers in our present society.²²

Thus, to establish a prima facie case appellant needs to show more than that he was qualified for the CAO position but was rejected in favor of a black male from outside MSPB. He must also show that "background circumstances support the suspicion that the defendant is that unusual employer who discriminates against the majority."²³ In other words, to repeat the *Burdine* formulation, he must show that he

21. *McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 280, 98 S.Ct. 2574, 2578, 49 L.Ed.2d 493 (1976).

22. *Parker v. Baltimore & O.R. Co.*, 652 F.2d 1012, 1017 (D.C.Cir.1981).

23. *Id.* See also *Daye v. Harris*, 655 F.2d 258, 263 (D.C.Cir.1981).

24. 450 U.S. at 253, 101 S.Ct. at 1093.

25. Mem.Op. at 2, reprinted in JA at 21.

26. *Id.*

27. The Supreme Court has held that Title VII does not prohibit "race-conscious affirmative action plans." *United Steelworkers of America v. Weber*, 443 U.S. 193, 197, 99 S.Ct. 2721,

"was rejected under circumstances which [despite his majority status] give rise to an inference of unlawful discrimination."²⁴

B. The District Court's Opinion

The district court found that appellant "easily established his prima facie case."²⁵ We agree. He was amply qualified for the CAO position. Indeed, he had been filling it for some time with good results. Furthermore, he presented evidence that once the MSPB demoted him to acting CAO "he was given little or no consideration for the position,"²⁶ and was passed over in favor of a black male from outside the agency whose qualifications were not fully reviewed by the selecting official. Finally, at the time of selection the MSPB was under pressure from its head to increase the percentage of minority employees and was in the process of adopting an affirmative action plan.²⁷ These elements combine to make out a prima facie case of race discrimination against a white employee.

[2] Once appellant established his prima facie case, the burden shifted to the MSPB to articulate a legitimate, nondiscriminatory reason for its treatment of appellant. The reason given by the MSPB was that appellant was not up to the standards of the job: he had performed poorly as CAO and was accountable for personnel and production problems in the Washington Field Office. This is the reason Rekenius gave to the EEO investigator.²⁸ It is the reason

2724, 61 L.Ed.2d 480 (1979) (approving direct quota allowing junior black employees to advance over white employees with seniority). But the Court declined to "define in detail the line of demarcation between permissible and impermissible affirmative action plans." *Id.* at 208, 99 S.Ct. at 2729. Nor need we attempt such a task today. The MSPB has not purported at any point in the proceedings to justify its actions on the basis of an affirmative action plan. Under both *McDonnell Douglas* and *Burdine* an employer is held to the reason it articulates for rejecting an employee. If that reason proves pretextual, a court is not to substitute an alternative justification of its own accord. See pp. 1316-1317, *infra*.

28. See p. 1313, *supra*.

given in the MSPB's Answer to the original Complaint.²⁰ It is the focus of the MSPB's defense as presented to the trial court below.²¹ And it is reiterated in the argument made to this court.²²

There can be no doubt that "poor performance" was the response given by the MSPB when it was required, under the shifting burdens of *McDonnell Douglas*, "to articulate some legitimate, nondiscriminatory reason for the employee's rejection."²³ Appellant devoted his energies at trial to rebutting this defense in an effort to show that it was merely a pretext for discrimination. The ultimate issues in the case were thereby brought clearly into focus. Yet the district court inexplicably granted judgment for the MSPB on a ground totally different from that upon which the MSPB relied.

The defendants did not single out plaintiff as a means of selecting a black; rather, they had concluded prior to the 1980 selection of CAOs that they wanted new faces and they wanted to remove most if not all of the incumbents.²⁴

The district court found that the MSPB simply wanted "to inject new blood into the agency" by means of a "change in personnel" among holdover CAOs.²⁵

The entire basis for this "clean sweep" justification presented by the district court appears to stem from a stray suggestion made to Redenius by another MSPB official who did not even take part in the selection process.²⁶ He suggested that because of public image problems it might be best "to replace all the staff members who were the

20. See Answer at ¶¶ 18 & 20, reprinted in JA at 17.

21. See Testimony of Mr. Redenius, reprinted in TR at 438-440, 505-510.

22. See Brief for Appellees at 12.

23. 411 U.S. at 802, 83 S.Ct. at 1824. A related justification presented by the MSPB is that Flanagan was better qualified than appellant. In other words, appellant is said to have been unqualified for the CAO position both absolutely and relative to his successor. But the argument for the latter point turns largely on evidence presented to establish the former. That is, the MSPB does not emphasize Flanagan's

key figures," including CAOs.²⁷ There is no indication that this suggestion was followed. Indeed, two of the five holdover CAOs were reappointed. More important, Mr. Redenius, the selecting official, never offered it as a reason for not selecting appellant. Nor was it ever put forward as a justification by the MSPB, either before this court or below. In fact, the MSPB has explicitly disavowed it.²⁸

The district court's substitution of a reason of its own devising for that proffered by appellees runs directly counter to the shifting allocation of burdens worked out by the Supreme Court in *McDonnell Douglas* and *Burline*. The purpose of that allocation is to focus the issues and provide plaintiff with "a full and fair opportunity" to attack the defendant's purported justification. That purpose is defeated if defendant is allowed to present a moving target or, as in this case, conceal the target altogether.

[T]he defendant must clearly set forth, through the introduction of admissible evidence, the reasons for the plaintiff's rejection. The explanation provided must be legally sufficient to justify a judgment for the defendant. If the defendant carries this burden of production, the presumption raised by the prima facie case is rebutted, and the factual inquiry proceeds to a new level of specificity. Placing this burden of production on the defendant thus serves simultaneously to meet the plaintiff's prima facie case by presenting a legitimate reason for the

wrong points so much as appellant's deficiencies.

27. Mem Op. at 8, reprinted in JA at 27.

28. *Id.* at 8-9, reprinted in JA at 27-28.

29. Testimony of Mr. Mahoney, reprinted in TR at 481 ("We were not brought into these consultations to any great degree and we sort of were left out, wondering what was going to happen").

30. *Id.* at 593. See also *id.* at 640.

31. Brief for Appellees at 24-25.

action and to frame the issue with sufficient clarity so that the plaintiff will have a full and fair opportunity to demonstrate pretext.³²

The Supreme Court explicitly asked that "[a]n articulation not admitted into evidence will not suffice. Thus, the defendant cannot meet its burden merely through an answer to the complaint or by argument of counsel."³³ It should not be necessary to add that the defendant cannot meet its burden by means of a justification articulated for the first time in the district court's opinion.

Accordingly, the judgment of the district court cannot be sustained.

C. The Question at Issue

[3] The focus of this case is now on a single issue: Was appellant's poor performance as CAO the real reason for the MSPB's treatment of him?³⁴ If true, appellant's case is defeated and judgment must be for the MSPB. If, however, appellant shows that reason to be specious, then in conjunction with his prima facie case appellant has carried his burden of proving discrimination by a preponderance of the evidence.

32. 430 U.S. at 235-36, 101 S.Ct. at 1094-95.

33. *Id.* at 255 n. 9, 101 S.Ct. at 1094 n. 9 (emphasis added). See also *SEC v. Chenery Corp.*, 318 U.S. 80, 63 S.Ct. 454, 87 L.Ed. 426 (1943) (administrative agency must defend its decision in court on the same basis as it gave for the decision itself).

34. As noted, the MSPB claims not only that appellant was unqualified for the CAO position but also that his successor was qualified. There appears to be little doubt that at the time of the first selection process the latter statement was true. Flanagan's paper record made him a plausible candidate for a CAO post and on the basis of that record he successfully passed the initial screening panel. Furthermore, Redenius testified that Flanagan was impressive and articulate in the personal interview preceding his selection. Testimony of Mr. Redenius, reprinted in TR at 554. But in order to establish pretext appellant need not show that Flanagan was unqualified. He need only show that he himself, contrary to the MSPB's assertions, was fully qualified. As we shall see, he demonstrates this with ease. Appellant's position is then further bolstered by evi-

There is no need to remand to the district court to resolve this issue. It is clear from the record and even from the district court's opinion that appellant did not perform poorly as CAO.³⁵ In fact, his performance was good, perhaps excellent, and he met all the standards and objectives of the job. Therefore, poor performance could not have been the reason for his nonselection. Since any other finding would be clearly erroneous, a remand on the issue would serve no purpose.³⁶

As noted, Redenius gave three reasons why he considered appellant to be "not up to the standards" of the CAO position.³⁷ All three reasons have been decisively refuted by the evidence in the case. Indeed, the Stipulations of Fact alone, stipulations voluntarily entered into by the MSPB, are sufficient to undermine most of Redenius' claims.

First, Redenius asserted that "Lanphear did not handle people well and alienated his entire workforce."³⁸ He cited a number of management problems and Equal Employment Opportunity (EEO) complaints filed against appellant. "Redenius alleged that there were more problems in that unit in 1979 than in the rest of the organization."³⁹

dence that, at the time of the first selection, Redenius did not fully review Flanagan's qualifications, see p. 1313, *supra*, and that, at the time of the second selection, Redenius ignored indications that Flanagan himself had performed poorly as CAO, see pp. 1317-1318, & n. 65, *infra*.

40. The district court failed to identify this issue as the crux of the case and therefore failed to make any specific finding on it. But it is clear from remarks scattered throughout the opinion that the district court implicitly found that appellant did not perform poorly as CAO. See, e.g., Mem Op. at 4, 5, and 9, reprinted in JA at 23, 24, and 28.

41. *Independent Bankers Assoc. v. Heilmann*, 613 F.2d 1164, 1167 (D.C.Cir.1979).

42. See note 10, *supra*; Testimony of Mr. Redenius, reprinted in TR at 505-510.

43. EEO Report at 4, reprinted in JA at 68.

44. *Id.* See also Testimony of Mr. Redenius, reprinted in TR at 510.

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HIRING
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Regional Directors
Administrative Officers and Assistants

Frederick L. Foley, Acting Director *151*
Personnel Management Division

Recruitment of Attorney-Examiners

Please refer to the attached vacancy announcement for an attorney-examiner position. You must fill in the issue and closing dates in the upper right corner. The issue date should be the first day you post or circulate the announcement. The closing date is at your discretion, however, for maximum flexibility, I suggest using "open until filled." That would permit you to fill the vacancy immediately or to wait for a highly qualified candidate. That flexibility is especially useful when more than one position is to be filled.

Should you use "open until filled" as your closing date, you must close the vacancy announcement on a date certain at some point. Technically there is no restriction on the amount of time an announcement may remain open. It is practical to close the announcement when all positions have been filled or when further recruitment is unnecessary. To accomplish this the attached blank vacancy announcement should be used. All information above the duties and responsibilities section should be filled in the same way the vacancy announcement read. In addition, "(Revised)" must be added after the announcement number on the top line, and, in the duties and responsibilities section you should indicate that "This vacancy announcement closed (date)." The closing announcement should be circulated to the same organizations and be placed on the same bulletin boards as the original announcement. It should not be circulated to any publications which must be paid for advertising.

It is imperative that applicants satisfy the qualification requirements specified on page one. You may not consider for the position applicants who do not meet these requirements. Page two of the announcement instructs applicants to mail applications to your administrative officer or assistant. You should have that individual screen the material to weed out applicants who do not meet the qualification requirements. Please refer to MSPB Order No. 1412.1 (February 2, 1981) on "Personnel Management -

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Excepted Service" for a more complete explanation of employment and advancement of excepted service attorneys generally and of preference consideration which must be given to veterans. Let Sue Mandle know if you do not have a copy of this Order.

Once you have narrowed your pool of applicants to those who are qualified, you must complete the attached "promotion certificate." The "certificate number" is "[your regional office] Ann. #__-__." The "date certificate issued" is the date the completed certificate is forwarded to the "selecting official," which is the regional director. The "certifying official" must be different from the selecting official. The AO or AA should sign off as the certifying official after reviewing the applications and making sure that the name of each applicant who satisfies the qualification requirements is listed on the certificate. Under "Instructions" the names of those in your pool of qualified applicants should be listed alphabetically. If there is not enough space the list should be continued on an additional certificate labeled page 2, and so on if more pages are needed. The "deadline for returning certificate" (to the certifying official) is 30 days after the date issued. Within that time, the hiring selection should be made and the name of the selectee, or selectees if more than one position is being filled, should be indicated under "Selection" at the bottom of the certificate.

→ The ranking factors can be used for any further subdividing of applicants the selecting official wishes. Significantly, it is not contemplated that a numerical system be used for attorney positions. (See the attached FPM letter and accompanying decision.) Rather, the ranking factors are to be used as guidance, particularly when you have a large pool of qualified applicants. For example, in a hypothetical group of 75 qualified applicants you may distribute the applications in piles according to how many of the ranking factors the applicant has demonstrated experience with. You may decide to consider more seriously those who have actual experience with 75% or more of the factors. The important thing is to be consistent for the duration of the process and to document your method so that there is an audit trail which can be used to respond to any inquiries.

After you have decided who you wish to hire, the promotion certificate and supporting materials specified under "Instructions" should be forwarded to Pat Ealey in the Personnel Management Division. The Personnel Management Division will hold the materials for two years as required by regulations. You should retain a copy of the certificate for your records. Ms. Ealey will offer the formal commitment to the successful applicant as soon as possible after receiving the material. Understandably you will probably verify whether your tentative selection desires the position. However, you must make clear that the position is not formally committed until an offer is extended from the Personnel Management Division.

Do not hesitate to call me at 653-7120 if you have any questions.

Attachments

AMDRO:SMandle:yc:3-8-82
RDAOA.YC

PROMOTION CERTIFICATE



Position Title, Series and Grade (Known Promotion Potential):	Certificate Number:
Organization:	Vacancy Announcement Number: Closing Date:
Date Certificate Issued:	Deadline for Returning Certif to Personnel:

INSTRUCTIONS:

The candidates certified below have been rated "best qualified" under the Merit Promotion Plan procedures. Their applications and appraisals are attached. Any name on the list may be selected. Candidates eligible for non-competitive consideration may also be selected and are so noted. For interview guidelines refer to MSPB Order 1416.1, Chapter 3, Para. 3. Please place a check mark by each interviewed candidate.

Signature of CERTIFYING OFFICIAL	Date
SELECTION (Choice for Vacancy)	
Name	Proposed Effective Date
Signature of SELECTING OFFICIAL	TITLE Date

APPENDIX K

Office of Personnel Management

Federal Personnel Manual System

FPM Letter 302-5

FPM Letter 302-5 10/

SUBJECT: Exemption of Attorney Positions from Procedural Requirements
for Appointments in the Excepted Service

Published in advance
of incorporation in FPM
Chapter 302
RETAIN UNTIL SUPERSEDED

Washington, D. C. 20415
September 24, 1979

Heads of Departments and Independent Establishments:

1. The Office of the Legal Counsel, Department of Justice, has ruled that the Office of Personnel Management (formerly the Civil Service Commission) is barred by its appropriation act, which prohibits examining for attorneys, from imposing or approving any rating system for use in hiring attorneys. A copy of the decision is attached.
2. In line with this ruling, current regulations governing appointments in the excepted service are being revised to exempt attorney positions. Agencies cannot be required to follow the requirements of part 302 of the regulations in developing attorney selection procedures. Agencies are expected, however, to provide preference to veterans under whatever procedures they use and to provide veterans, on request, with the reasons for their nonselection for attorney positions.
3. The Justice Department's decision applies only to attorney positions and does not change the regulations applicable to other positions in the excepted service. Agencies wishing to adopt alternative selection procedures for excepted positions not specifically excluded from coverage under part 302 of the regulations must still obtain Office approval as provided in section 302.105, or regulatory requirements, before the alternative procedures may be used.

Arch S Ramsay

Arch S. Ramsay
Associate Director
Staffing Services

Attachment

Inquiries: Inservice Placement Branch, Staffing Services, 632-4533

Code: 302 - Employment in the Excepted Service

Distribution: FPM

Assistant Attorney General
Office of Legal Counsel

Attachment to PPM Ltr 302-5

Department of Justice
Washington, D.C. 20530

10 APR 1979

MEMORANDUM FOR ALAN K. CAMPBELL
Director, Office of Personnel Management

Re: Attorney Hiring and the Veterans'
Preference Act

This responds to your February 2, 1979 request for our opinion on whether the Department of Justice attorney hiring procedures give effect to the Veterans' Preference Act. (Public Law 359, 78th Cong. 2d Sess. (1944); 58 Stat. 387, codified at 5 U.S.C. §§ 2108 and 3309-3320). You have also asked whether the Office of Personnel Management (OPM) 1/ may prescribe an examination procedure (particularly a numerical rating system) for the selection of attorneys. We are pleased to respond. For the reasons that follow it is our conclusion, first, that this Department's attorney hiring practices do fully take into account the preferences that Congress has afforded veterans, and second, that OPM is barred by its appropriations legislation from imposing a rating or other examination system on the hiring of attorneys within the Executive Branch.

In the competitive civil service, also called the classified civil service, the Veterans' Preference is implemented by adding a designated number of points to an eligible veteran's examination score. Section 3 of the 1944 Veterans' Preference Act, codified at 5 U.S.C. § 3309, prescribes the following point system in the competitive service.

1/ The Civil Service Reform Act of 1978, Public Law 95-454, 95th Cong., 2d Sess. (1978), and Reorganization Plan No. 2 of 1978 (43 Fed. Reg. 36037) divided the functions of the U.S. Civil Service Commission between two new agencies -- the Office of Personnel Management (OPM) and an independent Merit System Protection Board. Since the legislative history and Executive orders cited herein refer to the Civil Service Commission, we will use the terms "Commission" and "OPM" interchangeably.

A preference eligible who receives a passing grade in an examination for entrance into the competitive service is entitled to additional points above his earned rating, as follows --

- (1) a preference eligible under section 2108(3)(C)-(G) of this title -- 10 points; and
- (2) a preference eligible under section 2108(3)(A) of this title -- 5 points.

Section 2108 of Title 5 defines a "preference eligible" as an honorably discharged veteran who served in the armed forces under such conditions as are set forth in that section. Certain disabled veterans and, in some cases, their relatives or survivors are entitled to the 10-point preference provided by § 3309, while certain nondisabled veterans are entitled to a 5-point preference.

Although this point system was not mandated by statute until June 27, 1944, it had been implemented in the Executive Branch since March 3, 1923 pursuant to President Harding's Executive Order No. 3801, as amended. In this connection, the report of the Senate Civil Service Committee on the 1944 Veterans' Preference Act states that:

Section 3 [of the Act] would enact into law the 10-point preference for service connected disabled veterans and the 5-point preference for non-disabled veterans presently contained in civil-service rules.

Senate Report No. 907, 78th Cong., 2d Sess. p. 2 (1944). The 1944 Act merely gave legislative sanction to the then existing point system.

Although, by its terms, section 3309 applies only to the competitive service there is a suggestion in 5 U.S.C. § 3320 that such a system is required in the excepted service. This provision reads in pertinent part as follows:



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American Coalition for Traditional Values

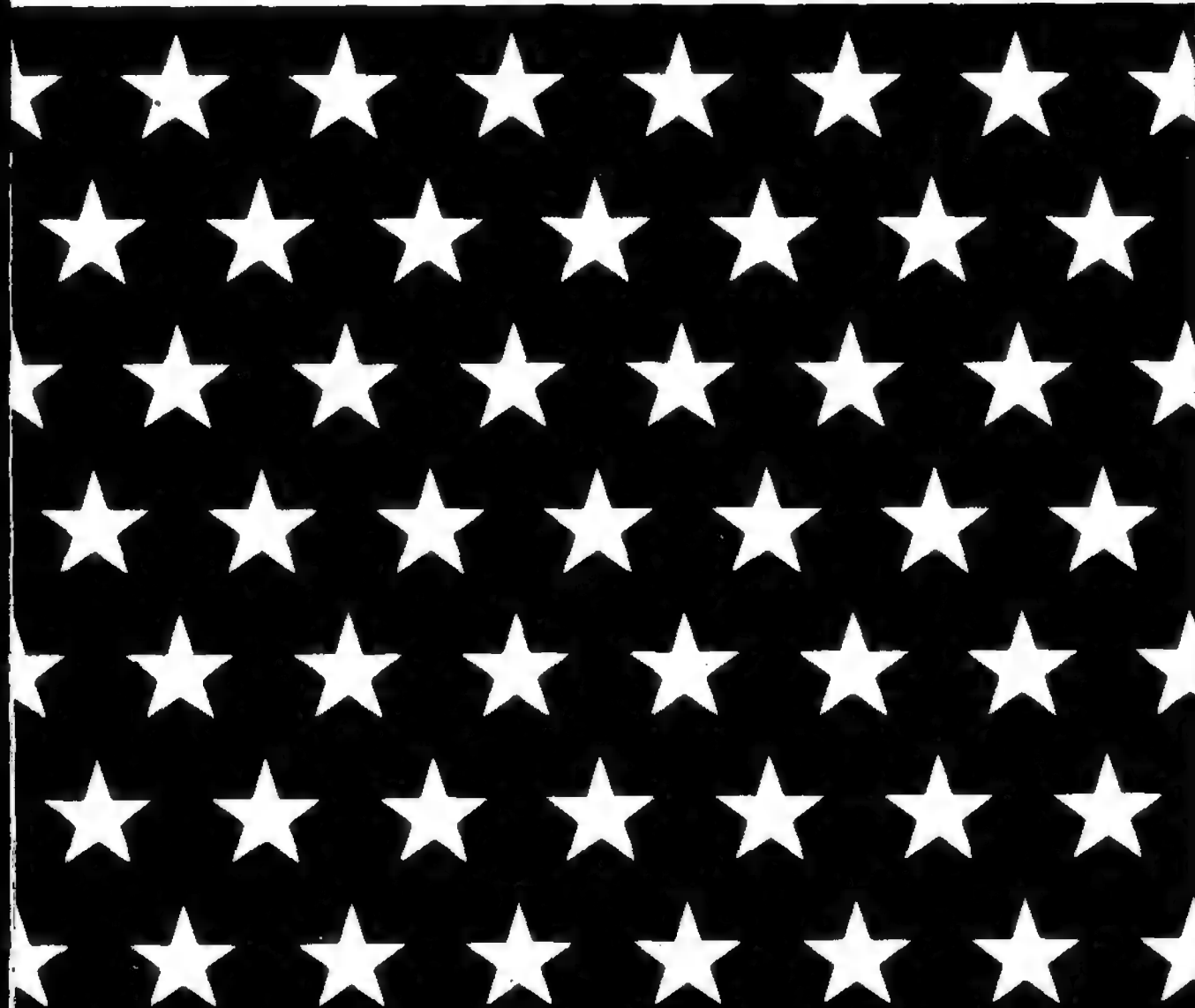
122 "C" Street NW, Suite 800

Washington, D.C. 20001

(202) 628-2967

Government Service Advisory Program

**Government Employment —
A Ministry for God and Country**



GOVERNMENT A Good Place to Serve God

THE NEW CHRISTIAN MISSION FIELD

If Gallup is right and there are 69 million born again Christians in America, that means we only need one out of 700 of our number to serve in a political or career government position in order to change the moral tone of government in the next decade.

Almost everyone is aware that the moral climate in our country has declined to an all-time low. In fact, if this nation continues to decline morally during the next 15 years at the same rate it has during the past 15 years, we will be living in Sodom-and-Gomorra-like conditions before the year 2000.

One reason for this is that government, one of the most influential institutions in our culture, has not been a high priority among Christians. Consequently, government service has attracted a higher number of secularists (individuals who usually do not have a commitment to God and His moral absolutes) than God-conscious citizens. That is why so many secular decisions and government policies have been made during the past two or three decades.

With the growing number of Christians in our population, we think there should also be an increase in the number of Christians who seek to serve their Lord and their country through government employment. That is why we are trying to raise the consciousness level of Christians to consider government service.

Such a program is Biblical! Moses, Daniel, David, and many others were government servants. And three times in Romans 13:1 - 6, government leaders (kings, governors, and those in authority) are called "Ministers of God."

In addition to prayer and our already existing ministries, one way we can lastingly affect the moral future of America is to provide the next generation with the kind of government leadership that is committed to the traditional values upon which this nation was originally founded. We Christians have such a commitment.

— Dr. Tim LaHaye, Chairman, ACTV

How You Can Reach Out

Currently, born again Christians number 23 - 25 percent of the population, but hold less than 5 percent of government jobs. Only through an organized effort will Christians be informed about and recruited to serve the Lord in government during the years ahead.

The Government Service Advisory Program (GSAP) is a unique ministry of ACTV designed to recruit and assist dedicated Christians, technically and professionally qualified for federal service, to consider serving their Lord and country by applying for government employment.

Providing information to Christian professionals regarding the employment opportunities available within the federal government is just one way that GSAP accomplishes this goal.

As this program develops, it will work with all branches of government service, from political appointments, to congressional staff assignments, to permanent civil service positions.

As qualified candidates respond to the challenge, GSAP will advise and assist them in applying for those positions for which they are best suited, and how best to present themselves to enhance their placement possibilities.

If you know of qualified Christians interested in government service, please suggest that they contact the Government Service Advisory office at ACTV, 122 "C" Street NW, Suite 800, Washington, D.C. 20001.

How the Government Service Advisory Program Serves You

As a voluntary program NOT AFFILIATED WITH THE GOVERNMENT, the ACTV-GSAP office cannot guarantee success for each applicant. It does, however, inform prospective candidates about the types of positions available and instructs the applicants on the best way to make application—one that would ensure fair and reasonable consideration.

The U.S. Office of Personnel Management handles most positions offered within the Executive Branch of government. The remainder of these positions are appointed by the President, Cabinet-level officials, and senior administration advisors. Collectively, thousands of job opportunities are available. But, as requirements and procedures vary from one federal agency to another, as well as from office to office, the government employment process is complex. Politics and related problems further serve to complicate the process.

The GSAP is committed to removing these obstacles in four ways:

1. Through promoting the opportunity of government service to the Christian community.
2. By soliciting applications for government employment from qualified Christians. Qualified candidates would then be recommended to the appropriate government personnel office or agency.
3. By informing individuals of the proper employment application procedures, determining the manner most likely to be successful.
4. By providing government career counseling to prospective candidates.

GETTING STARTED — Complete and mail in this Government Employment Information Request Card.

et _____ Apt. No. _____
City _____ State _____ Zip _____

☐ I am interested in being considered for a political appointment or other government service. Please send me a pre-employment information packet. Enclosed is \$5.00 to cover materials and postage costs.

☐ I am interested in serving in the following branches of government.

- ☐ Executive Branch (Presidential Administration)
- ☐ Legislative Branch (U.S. Congress)
- ☐ Judicial Branch (Supreme Court and other judicial bodies)
- ☐ I do not know.

How did you hear about ACTV and the Government Service Advisory Program?

☐ Pastor, name and church _____

☐ ACTV Board of Governors, name _____

☐ Radio or TV, call letters and city location _____

☐ Other _____

Please do not send cash. Make check or money order payable to: American Coalition for Traditional Values
Mail request card to: ACTV, Government Service Advisory Program, 122 "C" Street NW, Suite 800, Washington, D.C. 20001
For further inquiry call: (202) 628 - 2967

How and Where You Can Serve

The following list provides a limited sampling of some positions available in the federal government. The types of appointments and salary levels differ in each branch of government. Upon receipt of the attached information request card, a more specific list of job opportunities, determined by your qualifications and areas of interest, will be mailed to you.

EXECUTIVE BRANCH

Presidential Cabinet Officers

(e.g. Secretary of the Interior)

Sub-Cabinet Officers and Assistants

Agency Chairmen

(e.g. Civil Rights Commission)

Attorneys

Educators

Scientists

(e.g. energy, agriculture, health, space)

Environmental and Agricultural Professionals

Economists, Bankers, Financial Managers,

Accountants

Medical Specialists

Managerial Experts

Art, Music, and Cultural Historians

Businessmen

Real Estate Professionals

Military Officers

Law Enforcement Officers

U.S. Marshals

U.S. Attorneys

Transportation Officials

Printing Administrators

Diplomats

Secretaries, Receptionists, Administrators, and
Researchers

Interns

LEGISLATIVE BRANCH

Congressional Personal Staff

Legislative Aides

Committee Staff

Attorneys

Administrators

Clerical Staff

Researchers

Interns

JUDICIAL BRANCH

Judges and Justices

Attorneys

Paralegals

Legal Assistants

Who is ACTV?

EXECUTIVE COMMITTEE

Tim LaHaye, Chairman	James T. Draper, Vice Chairman	
Richard Hogue, Secretary	Curtis Maynard, Administrator	
Ben Armstrong	Ronald S. Godwin	Paul Kienel
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Loren Cunningham	James Robison	Bob Weiner
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Bob Dugan		Tom Zimmerman

BOARD OF GOVERNORS

We have local pastors in over 300 cities in the nation who serve as our local chairmen to network the camera-ready brochures and calls to action which ACTV provides. He sends this material to each pastor in his city, requesting he reproduce and distribute it to his congregation.

WHO WE ARE AND WHAT WE STAND FOR

The American Coalition for Traditional Values (ACTV) is a coalition among the leaders of America's approximate 110,000 Bible-believing churches who have agreed to work together in Christian love to help restore traditional, moral, and spiritual values in our American government, our schools, the media, and in the very fiber of American society. We feel our leadership speaks for 45 million or more Christians who share our concern about the deplorable decline in the moral and spiritual values of American society over the past 50 years.

For the first time in recent history our coalition, that crosses all denominational lines, represents the coming together of true Christians from many varying doctrinal positions—agreeing to stand up united to defend the kind of America we must have if our nation is to survive for our children and grandchildren.

There are 40-69 million Christians in this country who profess to have had a born-again experience. We are the largest single minority in America, but unfortunately we have been so fractionalized by disunity and apathy we've let a minority group of secular humanists move into the key positions of influence, and they have an inordinate and harmful influence on our culture.

ACTV was founded in 1984 when a group of distinguished Christian leaders came together in Washington, D.C. to share their concerns about the moral and spiritual plight of America. Dr. Tim LaHaye, author, minister, and educator, was elected to serve as chairman.

American Coalition for Traditional Values

122 "C" Street NW, Suite 800 • Washington, D.C. 20001

What the Bible Teaches About Government Service

1. *Let every soul be subject to the governing authorities. For there is no authority except from God, and the authorities that exist are appointed by God. . . .*
4. *For he [authorities and those employed by them are] God's ministers to you for good. But if you do evil, be afraid; for he does not bear the sword in vain; for he is God's minister. . . .*
6. *For because of this you also pay taxes, for they are God's ministers attending continually to this very thing.*

Romans 13:1, 4, and 6

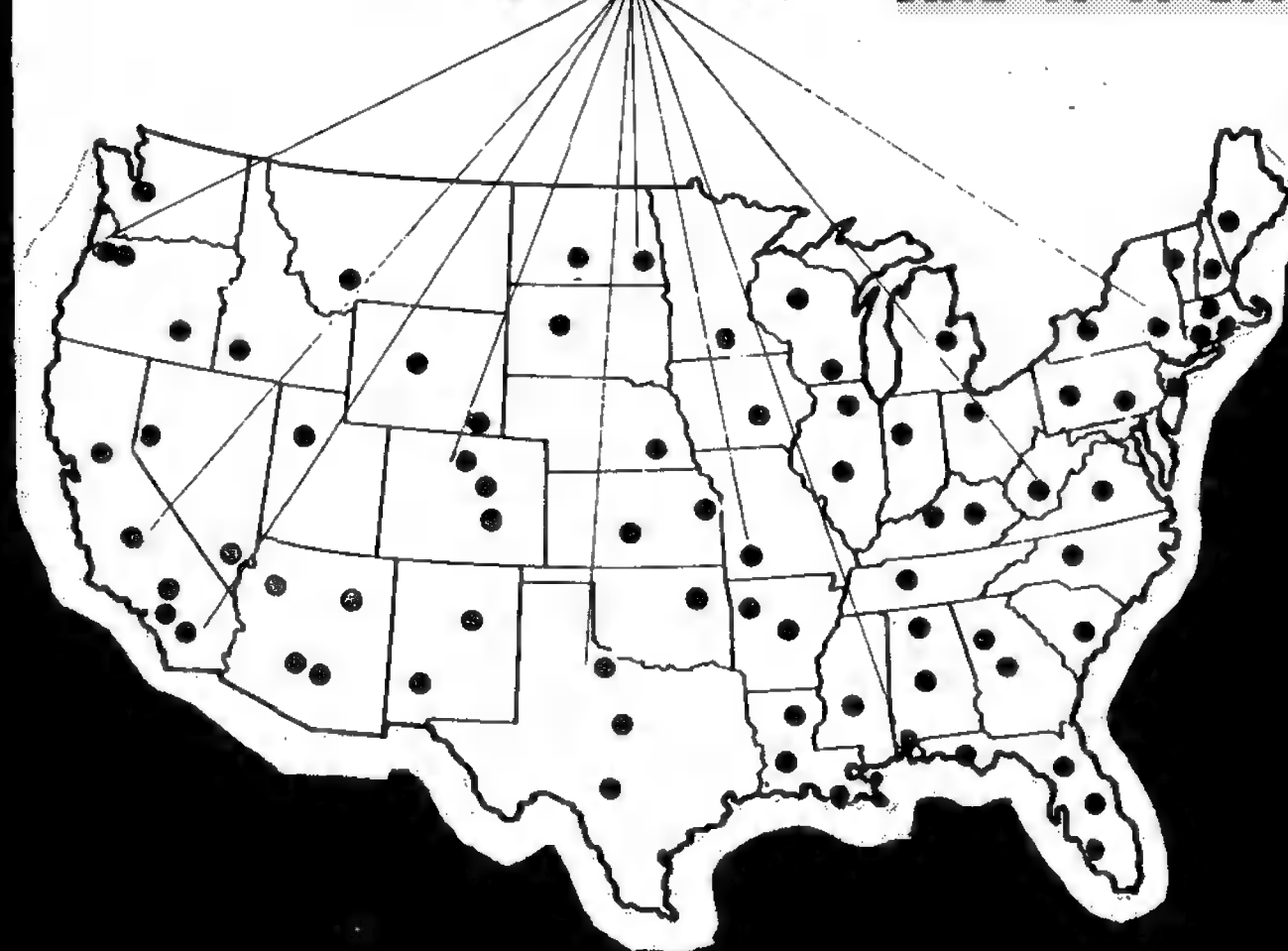
Inquire about how you can be a MINISTER OF GOD through government service. Complete and return the form on the reverse side of this panel.

MAIL TO: ACTV, Government Service Advisory Program, 122 "C" Street NW, Suite 800, Washington, D.C. 20001

The ACTV Network



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300 Pastors Representing All Major Cities

American Coalition for Traditional Values

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Who We Are

The American Coalition for Traditional Values is a new (1984) organization representing 45 million Christians and millions of other Americans who are concerned for this nation that it return to the traditional moral values upon which it was originally established.

The Founders are leaders of large Christian organizations and denominations. A network was established to 300 cities in the nation for the purpose of calling to simultaneous action millions of Christians.

The 300 ACTV city chairmen are members of the Board of Governors. They are local pastors who also serve as our network chairmen for their community. They have been instructed to amass the largest mailing list possible of the Bible-believing pastors in their city and send them camera-ready "calls to action" or "educational materials" which they receive from the ACTV national office.

The 110,000 pastors who receive these materials are asked to reproduce them and give them out at the church door. Our materials are designed for easy reproduction with the intent that millions of Christians will receive them and share our concern by reproducing the brochures for personal distribution.

Our network can effectively alert to action 300 city chairmen who send our materials to 110,000 or more churches and pass them out to millions of Christians, who in turn give them to millions of their neighbors and friends.

Traditionally we Christians have been fragmented by our doctrinal differences. By uniting our voices simultaneously on the moral concerns we all share we can have an impact on our elected officials worthy of our great numbers in the population. But it will take the active participation of all of us. Please join with us when you receive our calls to action from your pastor.

How ACTV Works

Many have asked, "How could such a diverse group of Christian leaders work together?" Very simple—we do not discuss theology! Instead, we concentrate on the moral concerns of our day on which we all agree.

Our unity is based on the facts that (1) we are all Christians and American citizens, (2) we are all deeply concerned about the religious growth of the humanistic religion of secularism that has made such drastic changes in our nation's moral values during the past 75 years, (3) we realize that independently no one group of us can have a significant impact on our government leaders, educators, and the media that is necessary to return our country to traditional values, and (4) by combining our efforts we can mobilize a sizable number of Christians and other religious-minded people to speak out simultaneously for the historic moral values essential to maintain a free and sane society. (I Timothy 2:1-4)

Some of Our 1985 Goals

1. Establish an office in Washington, D.C. to provide ACTV an effective voice to our government leaders.
2. Coordinate broad-based action among our churches on the moral issues (listed on the next page) with particular emphasis on the value of human life amendment and decency in literature legislation.
3. Sponsor a conference in Washington, D.C. for Christians aspiring to elective office for periodic training and motivation on how to run an effective campaign.
4. Sponsor a conference for Black and White Christian leaders to encourage a better understanding between us in the social and moral concerns we share.
5. Through our talent bank help more Christians look on government service and employment as an opportunity to serve both our Lord and our country.
6. Additional projects as approved by our Executive Board.

If you desire more information, please write to: →

Our 10 Moral Concerns

1. We believe in the sanctity of human life, and thus support a Human Life Amendment to protect the lives of the innocent unborn.
2. We maintain that religious freedom must be regarded as the first and foremost of human rights.
3. We support both a voluntary prayer amendment to the Constitution and equal access legislation, in order to restore religious expression in our public schools.
4. We are committed to guaranteeing the civil rights of all citizens, but believe that the creation of so-called "gay rights" for homosexuals is a threat to our nation's family life and extends civil rights beyond what is appropriate.
5. We support enactment and enforcement of legislation to contain the moral blight of pornography in our land.
6. We affirm the importance of economic justice for women, but reject the Equal Rights Amendment without qualifications as the vehicle to achieve that worthy goal.
7. We contend that government must acknowledge that parents are responsible for the raising of their children.
8. We believe that parental choice of public or private education should be available to all Americans, not just the wealthy. Therefore, we favor tuition tax credits or the equivalent for parents who send their children to private schools.
9. We favor governmental assistance for the deserving poor, but only through programs which encourage individuals to be self-reliant, thus strengthening the family rather than weakening it.
10. We support a strong national defense as the surest way to protect the security and liberty of American citizens, and to assure peace and freedom in the world.

The 69 million born again Christians (according to the Gallup Poll) are not the only ones concerned about the loss of traditional values. We invite all Americans who share our moral concerns to join us in speaking out to our elected leaders to return this nation to the values upon which it was founded.

American Coalition for Traditional Values
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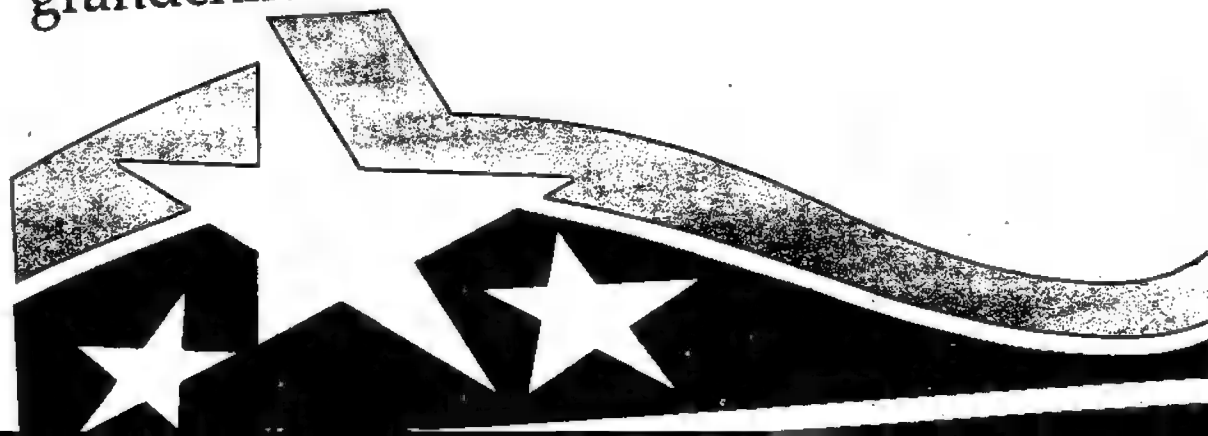


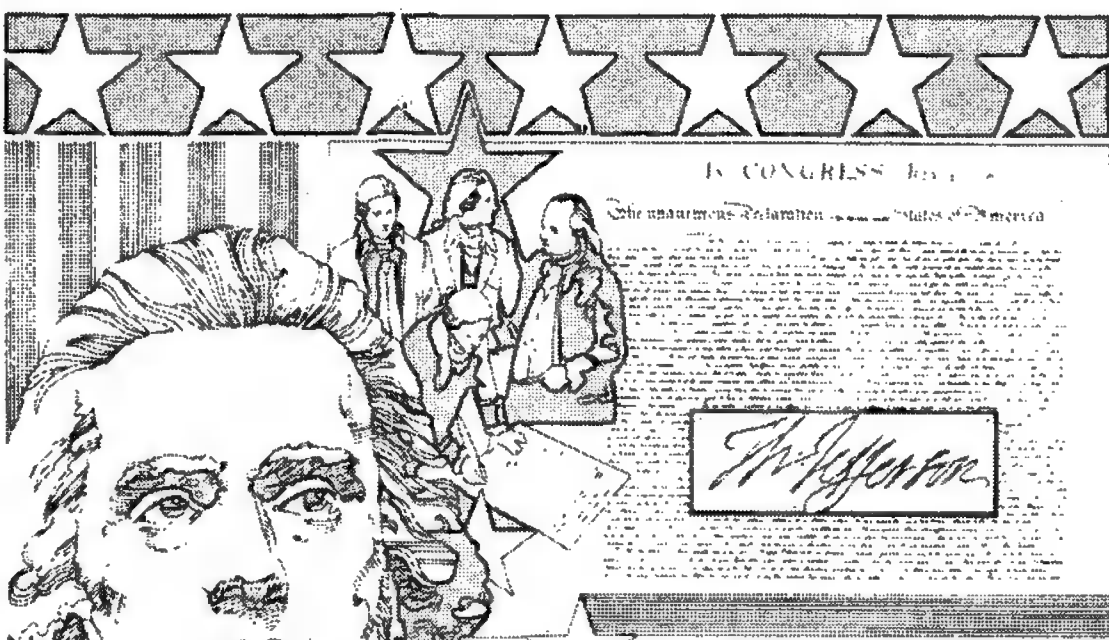
**American Coalition
for Traditional Values**

WHO WE ARE AND WHAT WE STAND FOR

The American Coalition for Traditional Values (ACTV) is a coalition among the leaders of America's approximate 110,000 Bible-believing churches who have agreed to work together in Christian love to help restore traditional, moral and spiritual values in our American government, our schools, the media, and in the very fiber of American society. We believe our leadership speaks for 45 million or more Christians who share our concern about the deplorable decline in the moral and spiritual values of American society over the past 50 years.

For the first time in recent history our coalition, that crosses all denominational lines, represents the coming together of true Christians from many varying doctrinal positions —agreeing to stand up united to defend the kind of America we must have if our nation is to survive for our children and grandchildren.





AMERICA'S LARGEST MINORITY

There are 40-69 million Christians in this country who profess to have had a born-again experience. We are the largest single minority in America, but unfortunately we have been so fractionalized by disunity

and apathy, we've let a minority group of secular humanists move into the key positions of influence, and they have an inordinate and harmful influence on our culture.

ACTV was founded in 1984 when a group of distinguished Christian leaders came together in Washington, D.C., to share their concerns about the moral and spiritual plight of America. Dr. Tim LaHaye, author, minister and educator, was elected to serve as chairman.

An executive committee was selected from an executive board made up of some of the best known and respected Christian leaders of our day to guide the direction of ACTV. These men have pledged their unwavering dedication to work toward the restoration of America's traditional values and are urging pastors and all Christians everywhere to join hands to effect a better America.

EXECUTIVE COMMITTEE

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Colonel V. Doner	Richard Hogue
James T. Draper	Paul Kienel
Ronald S. Godwin	Jimmy Swaggart

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Kenneth Copeland	Demos Shakarian
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Loren Cunningham	Charles Stanley
James Dobson	Robert Tilton
Bob Dugan	Cecil Todd
Mike Evans	Jack Van Impe
Jerry Falwell	Bob Weiner
John Gimenez	Don Wildmon
Rex Humbard	Tom Zimmerman

As well as the board members listed above, ACTV also has a Board of Governors which consists of 300 distinguished Christian leaders, one from each of America's 300 largest cities.

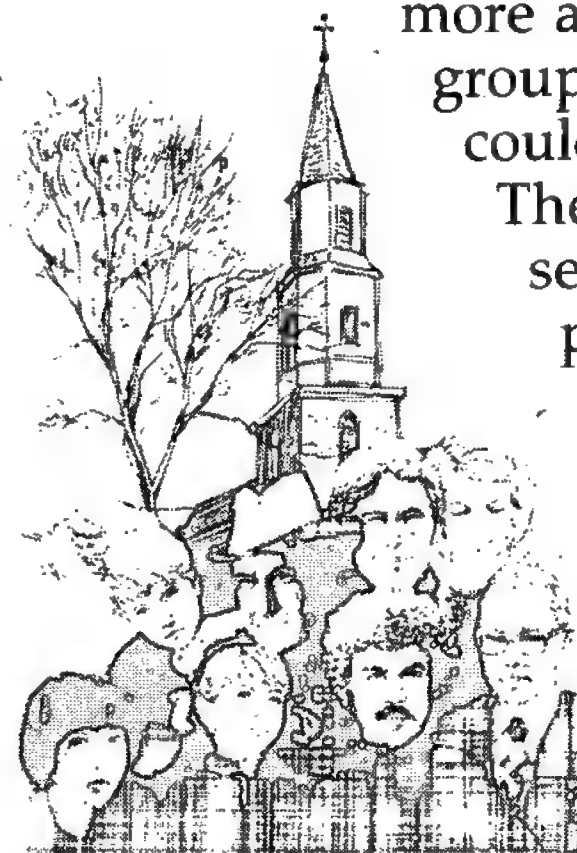
Through this network of cooperating Christian leaders, ACTV has the capability of putting out a call for action to the 45 million Christians whom it represents—thus providing the Christian community with the most united front seen in this century.



These men have agreed that in view of the continued erosion of our nation's moral values which threaten the family, religious freedom and parental rights, it would be in the best interest of the nation to meet together not on a

theological basis, but on the basis of mutual concerns for the moral decline of our society, and the growing threats to our religious and parental freedoms. Working together in this area, ACTV leaders believe we can accomplish far

more as a coalition of groups than any of us could independently. Therefore, ACTV has set forth its four primary purposes for the immediate future.



FOUR PRIMARY PURPOSES OF ACTV

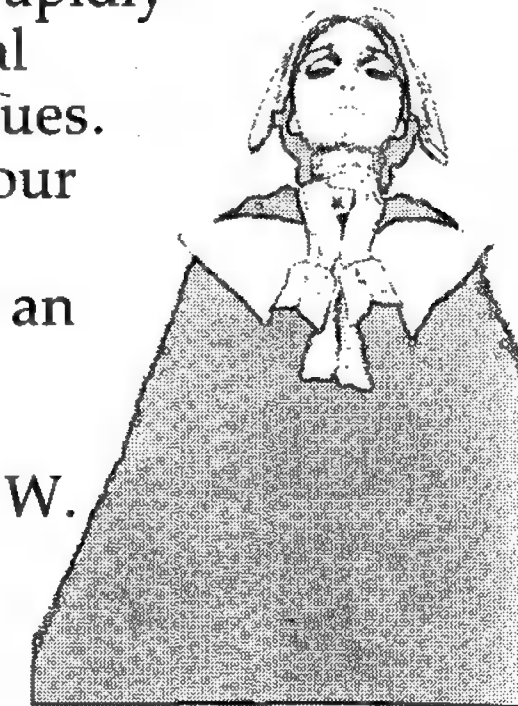
- 1) TO PROVIDE A UNITED VOICE FOR THE 45 MILLION PEOPLE WE REPRESENT... AND TO PROVIDE SIMULTANEOUS ACTION ON ALL ISSUES THAT THREATEN THE TRADITIONAL VALUES UPON WHICH THIS NATION WAS FOUNDED.
- 2) TO ENGAGE THE LARGEST POSSIBLE NUMBER OF CHRISTIANS IN THE ELECTORAL PROCESS THROUGH AN AGGRESSIVE VOTER REGISTRATION DRIVE AND ELECTION DAY GET OUT THE VOTE CAMPAIGN.
- 3) TO WORK FOR THE REESTABLISHMENT OF TRADITIONAL VALUES AS PUBLIC POLICY IN THE INFLUENTIAL AGENCIES OF OUR NATION.
- 4) TO CHALLENGE CHRISTIANS TO SERVE THEIR LORD BY VOLUNTEERING TO SERVE THEIR COUNTRY IN GOVERNMENT SERVICE AND TO ASSIST THEM TO DO SO THROUGH OUR TALENT BANK.

Because American political parties have largely ignored the beliefs and wishes of true Christians over the years—bowing instead to the demands of secular humanists and agnostics who hold beliefs diametrically opposed to our traditional values—ACTV has prepared a list of the ten basic concerns of the evangelical Christian community for presentation to both major parties.

Through ACTV, for the first time in history, the 45 million or more Christians who believe in traditional values now can speak with a united voice to insist that both major parties address the issues we are raising about the decline in the moral and spiritual fiber of America.

After having presented these views to the platform committees of both parties, ACTV will alert the Christian community to the response each major political party made to our list of basic concerns. Further, ACTV will make our views known to each candidate running for political office and will also alert Christians as to the stand each candidate takes on these same issues.

This will in no way be a partisan thrust. Both parties and their candidates will be treated equally. The party platforms and the philosophies of each candidate will have to stand under the searchlight of truth regarding the restoration of our rapidly disappearing traditional moral and spiritual values. We have listed below our ten basic concerns in abbreviated form. (For an enlargement on these issues, write ACTV, 122 C Street N.W. Suite 800 Washington, D.C. 20001.)



**10 BASIC CONCERNS OF THE EVANGELICAL
CHRISTIAN COMMUNITY
REGARDING TRADITIONAL VALUES**

1. We believe in the sanctity of human life, and thus support a Human Life Amendment to protect the lives of the innocent unborn.
2. We maintain that religious freedom must be regarded as the first and foremost of human rights.
3. We support both a voluntary prayer amendment to the Constitution and equal access legislation, in order to restore religious expression in our public schools.
4. We are committed to guaranteeing the civil rights of all citizens, but believe that the creation of so-called "gay rights" for homosexuals is a threat to our nation's family life and extends civil rights beyond what is appropriate.
5. We support enactment and enforcement of legislation to contain the moral blight of pornography in our land.
6. We affirm the importance of economic justice for women, but reject the Equal Rights Amendment without qualifications as the vehicle to achieve that worthy goal.
7. We contend that government must acknowledge that parents are responsible for the raising of their children.
8. We believe that parental choice of public or private education should be available to all Americans, not just the wealthy. Therefore, we favor tuition tax credits or the equivalent for parents who send their children to private schools.
9. We favor governmental assistance for the deserving poor, but only through programs which encourage individuals to be self-reliant, thus strengthening the family rather than weakening it.
10. We support a strong national defense as the surest way to protect the security and liberty of American citizens, and to assure peace and freedom in the world.

WHO SHOULD BE PART OF ACTV?

Every Bible-believing pastor who shares our mutual concern for the restoration of traditional values in America should actively support the efforts of ACTV. Every born-again believer, regardless of status in life, should do his or her part to back up the efforts our new coalition is making to bring moral decency and traditional values back to our beloved America.

Educating our fellow Christians about ACTV and its goals and projects is essential. That's why we urge every concerned Christian to freely reproduce our literature and distribute it to friends, neighbors and loved ones... and urge them to do the same.

Senator John Warner of Virginia said recently, "If you Christians ever get organized, there is no piece of legislation in the United States that you couldn't get passed."

It is ACTV's major thrust to help God's people make their influence felt in Washington, in state capitals, and in every area of our American society by speaking out with a united voice to defend traditional values. Your prayers on our behalf and your enthusiastic endorsement of our united efforts will help so much as we try to reclaim the traditional values that made America great.

"Righteousness exalteth a nation:
but sin is a-reproach to any people."
(Proverbs 14:34).

**REPRODUCE AND DISTRIBUTE
THIS INFORMATION FREELY**



**American Coalition for Traditional Values
122 C Street NW, Suite 800
Washington, D.C. 20001**



CONFERENCE on HOW TO WIN AN ELECTION

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for

- ★ PASTORS
- ★ POLITICAL CANDIDATES
- ★ CAMPAIGN STAFF WORKERS

OCTOBER 15 - 17, 1985

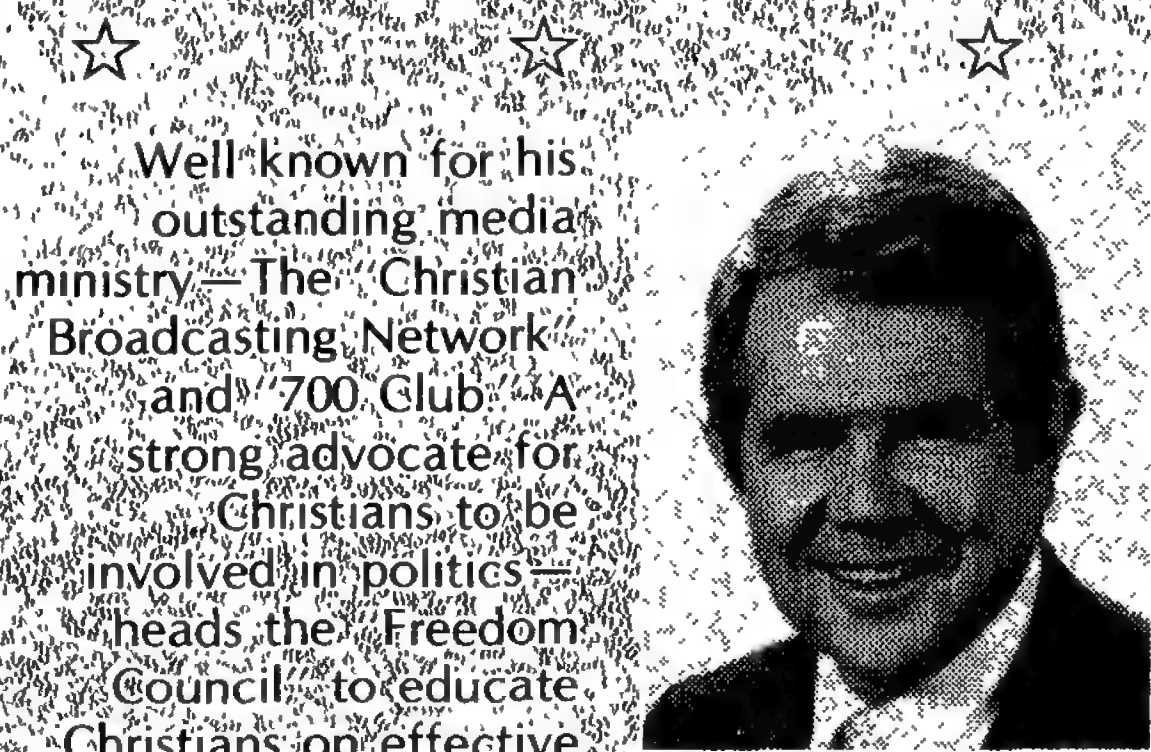
SHOREHAM HOTEL
2500 Calvert Street NW
Washington, D.C. 20008

Dynamic Religious and Political Speakers Invited to Participate in General Sessions and Workshops



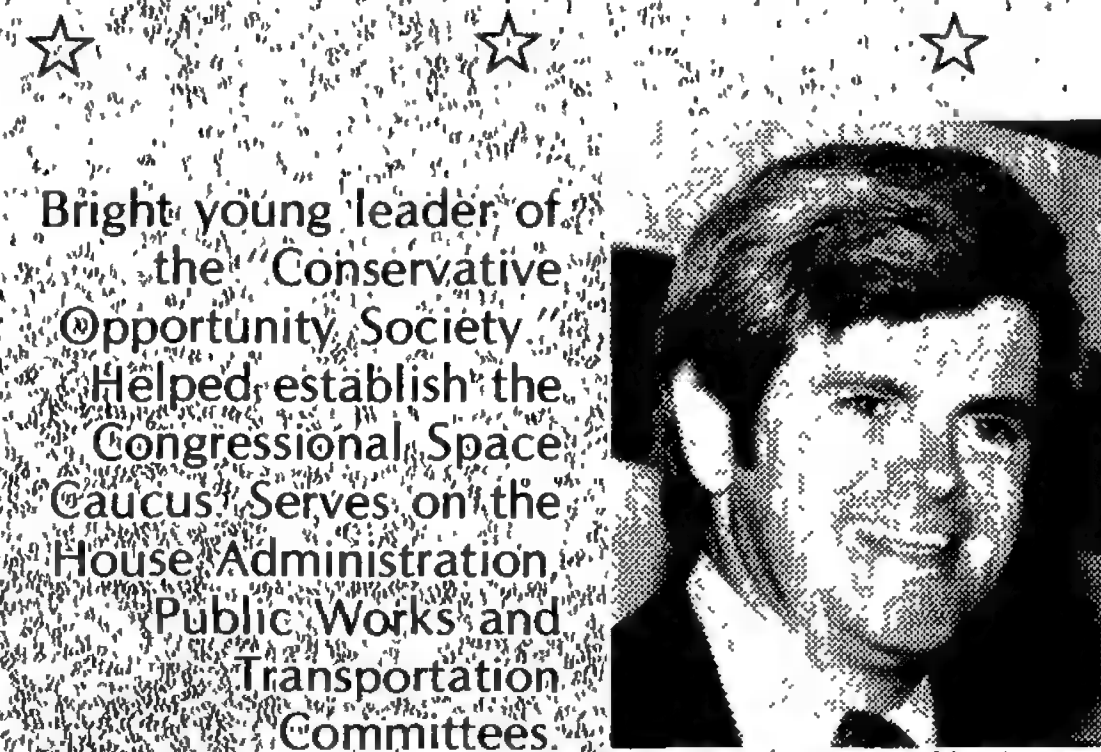
Most admired conservative politician and awarded Legislator of the Year by Christians for a better America. Proclaimed National Man of the Year in politics by Christian Voice.

Sen. Jesse Helms



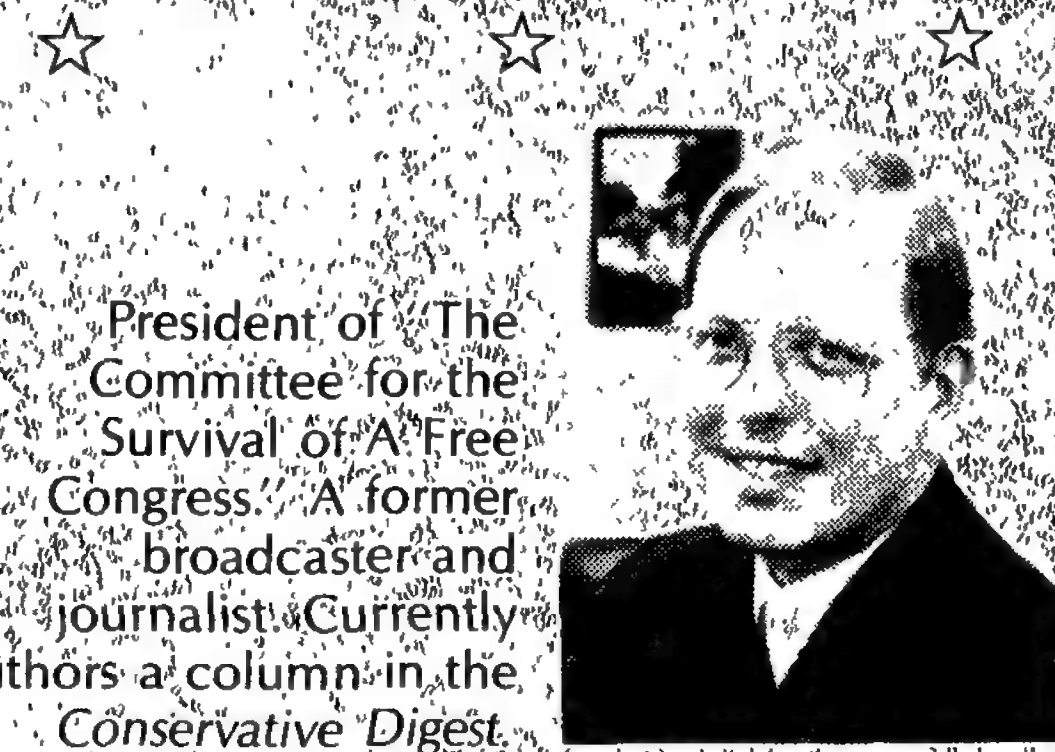
Well known for his outstanding media ministry—The Christian Broadcasting Network—and 700 Club. A strong advocate for Christians to be involved in politics—heads the Freedom Council to educate Christians on effective citizenship.

Dr. Pat Robertson



Bright young leader of the Conservative Opportunity Society. Helped establish the Congressional Space Caucus. Serves on the House Administration, Public Works and Transportation Committees.

Cong. Newt Gingrich



President of The Committee for the Survival of A Free Congress. A former broadcaster and journalist. Currently authors a column in the Conservative Digest.

Paul Weyrich



America's best known TV pastor voted 2nd most admired leader in the Nation—has had a profound influence on the involvement of Christians in returning this Nation to moral sanity.

Dr. Jerry Falwell



Highly respected Christian Senator that speaks out against abortion, pornography, child abuse, etc. Chairman of the U.S. Senate Republican Policy Committee and serves on the important Budget and Finance Committee.

Sen. William Armstrong



Known for his outstanding work in Evangelism Explosion—used successfully by church congregations all over the world. Viewed regularly on television by millions from his Coral Ridge Ministry. Highly respected for his views on the Constitution and the issue of Church and State.

Dr. D. James Kennedy



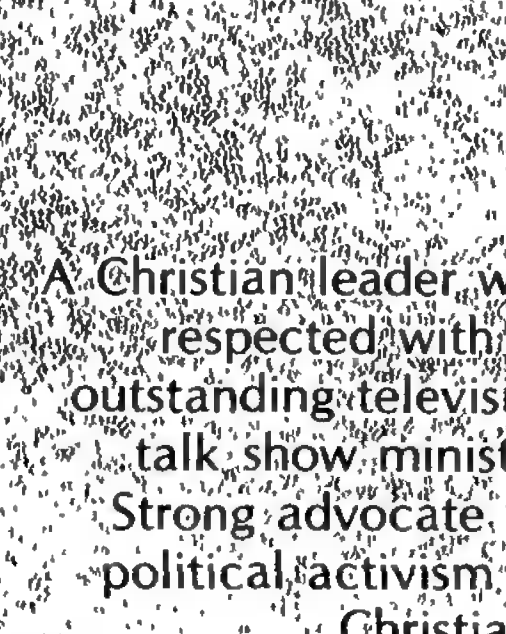
Actively involved and a leader in the Conservative Opportunity Society. Serves on the important and highly visible House Budget Committee. Also a member of the National Republican Congressional Committee.

Cong. Vin Weber



A key leader in the U.S. House of Representatives. Author of An American Renaissance: A strategy for the 1980's. Strong advocate for reform of our nation's fiscal and monetary policies.

Cong. Jack Kemp



A Christian leader well respected with an outstanding television talk show ministry. Strong advocate for political activism by Christians.

Dr. Richard Hogue



One of the most outspoken and colorful members of Congress and two-time Emmy Award winner before entering politics. Brings flare and vigor to Congress and his fight to preserve freedom for every American.

Cong. Robert Dornan



President of the American Coalition for Traditional Values and also President of Family Life Seminars. One of the most read Christian authors in the world with over 20 million copies in print of 30 different titles. Has a political radio talk show and TV ministry.

Dr. Tim LaHaye

PURPOSE OF CONFERENCE

For over 50 years Christians have stood idly by while other "civic-minded people" filled the vacuum. This left local, county, state, and national governments in the hands of people who did not always share our values. Consequently, our laws have been changed to favor abortion, pornography, homosexuality, infidelity, and other morally destructive practices. Family and personal life in America have declined to a dangerous level in the last decade.

One positive solution to this problem is for thousands of qualified Christians to run for public office. This should bring hope to our families and improve their community and the entire nation into the next century.

Good intentions are not enough! We must not only find thousands of godly candidates, but they must also *know how to win elections*. That is what this conference will teach.

SPECIAL PASTOR'S MEETING

The bi-annual meeting of the ACTV Executive Board and Board of Governors will be held during one of the seminar sessions of this conference. However, everyone will join in the main sessions.

Plans for '86 will be unveiled along with a program for each Chairman to maximize their influence in their community through ACTV's coordinated activities.

WHO SHOULD ATTEND?

- Pastors who share our concern for this nation and are willing to be used of God to raise up the leaders of tomorrow.
- Candidates for elective office, including school board, city council, and those running for state and national office. Valuable help will be provided for first time candidates and experienced politicians seeking re-election.
- Individuals thinking of running for office in '86 or in the future.
- Campaign managers, fund-raising, and other staff workers.
- All ACTV Executive Board members and ACTV Congressional District plus City Chairmen.
- Spouses of the above. Because of the level of commitment required to run for office, it is important that family members understand what is involved and be supportive.

EXPERIENCED PERSONNEL

Paul Weyrich, President of the Committee for the Survival of the Free Congress, a recognized conservative leader and strategist has arranged for many experts on effective election campaigning to provide valuable instruction and answer questions.

SPECIAL DISPLAYS—NUMEROUS EXHIBITORS



TRAINING SUBJECTS

- Campaign Finances
- Legal Guidelines
- Using the Media
- Volunteer Recruitment

AND MUCH MORE!

COST

Registration includes a very special banquet luncheon, and attendance at all sessions. (No refunds for any portion not attended.)

	(Single)	(Couple)
* Advance Registration	\$ 90	\$145
Late Registration	\$120	\$175

* Advance registration must be paid in full by September 16, 1985.

Please mail to: **ACTV, 122 "C" Street NW, Suite 800
Washington, D.C. 20001**

Name _____

Address _____

City/State/Zip _____

If you need further information phone: (202) 628-2967

HOTEL REGISTRATION FORM

Detach and send directly to:

ACTV Reservations
Shoreham Hotel
2500 Calvert Street NW
Washington, D.C. 20008
(202) 234-0700

Preferred Rates:

\$ 80/night (single)
\$100/night (double)

☐ I would like to be assigned a roommate

Name _____

Address _____

City/State/Zip _____

To guarantee, your reservation must be accompanied by the first night's deposit or by credit card

☐ Visa ☐ Mastercard ☐ American Express
☐ Carte Blanche ☐ Diners Club

CC# _____ Exp. Date _____

Cardholder's Signature _____

Reservations must be received by 9/16/85

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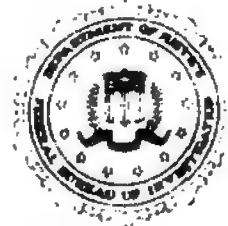
Curtis Maynard
Administrative Assistant

American Coalition for Traditional Values

122 C Street NW, Suite 800
Washington, D.C. 20001
(202) 628-3014

P.O. Box 16000
San Diego, CA 92116
(619) 440-4935

Memorandum



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8/7/85

TO: DIRECTOR, FBI
(ATTENTION: [REDACTED] ROOM 5161)

FROM: SAC, WFO 161B- 14852 (P*)

SUBJECT: Herbert Eugene Ellingwood

SPIN

BUDED: 7/10/85 RE: Bu alt 7/23/85

b6

b7C

Third Party

The following investigation was conducted by the persons indicated on the dates indicated:

On 8/5/85 WFO received the enclosed letter from MSPB with toll records attached. There is no apparent evidence of abuse of telephone by appointee. WFO making case P* to await records for 10/84 and 4/85.

UACB WFO will not request the phone company to identify all numbers called by appointee in Encl. #2

[Handwritten signature]

①-FBIHQ
1-WFO

(Encl

[Handwritten signature]

ENCLOSURE ATTACHED

(1 letter w/ 3 encl)

161-15392-102

NOT RECORDED

17 FEB 27 1986

57 APR 1 1986

4/8/86

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103
ENCLOSURE

61-15392-102

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ATTACHMENT III

TELEPHONE TOLL CALL CERTIFICATION

a. Certification Statement

Pursuant to statute 31 U.S.C. 680a, I certify that all long distance toll calls for which bills are attached (except as noted in paragraph b below) were necessary in the interests of the Government.

William E. Edgewood
Signature/title

5/25/84
Date

b. Excepted Calls

<u>Date</u>	<u>Place Called</u>	<u>Amount</u>	<u>Reason for Excepting</u>
11/30/83	New York, NY	\$2.80	Personal

b6
b7C

CHECK CONTROL

(*IF CASH SPECIFY)

INIT'L AND DATE RECEIVED	MONEY ORDER OR CHECK NUMBER	NAME	*BANK OR MONEY ORDER NAME	AMN'T.	REASON	INIT'L AND DATE DEPOSITED	NUMBER	TOTAL OF DEPOSIT
6/5/84	771774		Washington Bank & Trust Co.	\$15.00	Ticket Refund ✓	CRS 6-13 84	502 174229	4140100
6/5/84	463		Union 1st	\$16.76	reimb. telephone ✓			4140100
"	CASH		CASH	.50	" -- ✓			4140100
6/5/84	CASH		CASH	.19	trans. advance repayment ✓			
6/5/84	1577		DC Nat'l Bank	\$6.50	repayment of advance ✓			4140100
6/5/84	1734		Cherry Chase S & L	\$6.75	repayment of advance ✓			
6/5/84	482		Central Fidelity	\$5.00	repayment of advance ✓			
6/5/84	534		Cherry Chase S & L	\$5.50	repayment of adv ✓			
6/5/84	1853		Bank of Bethesda	5.00	Repayment of advance ✓			
6/5/84	999		Civil Service Co.	\$3.75	Repayment of adv ✓			
6/5/84	1905		MD Nat'l Bank	\$3.75	Repayment of adv ✓			
6/5/84	3340		The McLean Bank	\$2.00	Repayment of advance ✓			
256/4/84	Cash	Ellingwood	Cash	2.80	Telephone call ✓			4140100
6/7/84	2377		Madison	\$19.92	travel advance ^{repayment} ✓			4140100
6/7/84	5844650		Delta Air Lines	\$50.00	travel ^{rep} repayment ✓			
6/7/84	1090		United States National Bank	\$95.00	travel repayment ✓			

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ATTACHMENT II

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

September 28, 1984

FIRMR BULLETIN 12

TO: Heads of Federal agencies

SUBJECT: Federal Telecommunications System (FTS) intercity billing
market-based rates

1. Purpose. This bulletin introduces new market based billing, and announces changes in rates for the FTS intercity voice network.

2. Effective date. The new billing arrangement for the FTS intercity service will become effective October 1, 1984.

3. Expiration date. This bulletin contains information of a continuing nature and will remain in effect until cancelled.

4. Background. During the first decade and a half of the FTS's life, customers were billed only on the basis of number of calls made. Billing did not consider the length of the call or the distance over which the call was placed. This was to reduce the overall cost of billing to the Government and was also in line with earlier policy which recognized the benefits of easy communications between Government agencies. In 1981, as pressure grew to make individual agencies aware of cost control, intercity telephone service billing was changed to be time sensitive (i.e., Federal agencies were charged by the minute, but billing was still not distance sensitive). GSA currently bills each FTS user the average cost of a call, about 30 cents a minute regardless of the time of the day, or distance called. No billing is made for calls made outside of the business day, i.e., after 5:00 p.m. and before 8:00 a.m. In fact, data users are encouraged to use this time and avoid the peak usage hours during the day. This is changing. Effective October 1, 1984, GSA will implement market-based rates that will more closely represent the actual cost of a call. This billing process will, among other benefits, identify uneconomical traffic for which alternatives will be sought.

5. New billing system. The new billing concept introduces market-based rates to the FTS intercity service.

a. Calls to Government telephones from designated local exchanges in the 34 cities listed in Attachment A, Part I, will be priced at discounted MCI wide area telephone service (WATS) tariff rates. All other FTS calls completed to Government telephones will be priced at discounted American Telephone & Telegraph (AT&T) direct distance dial (DDD) tariff rates.

b. Calls completed to commercial telephones regardless of the originating point will be priced at discounted AT&T DDD tariff rates.

Attachment

c. All charges will be further discounted 15 to 20 percent to reflect GSA's lower cost of providing the service. For example, if the total monthly billing for MCI WATS calls and AT&T DDD calls is \$50,000, the FTS charge would be \$40,000 after a 20 percent discount. Note.--The discount will change from time to time, based on traffic.

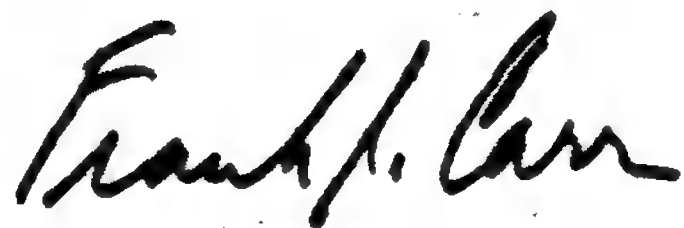
6. New billing computed on the latest quarter. The new billing system will be computed on the latest quarter of usage available. This differs from the previous method of billing which charged the average of the last four quarters of usage. Each agency's bill will provide more detail, including budget data. Using the current quarter will reflect increased or decreased usage on a more timely basis. In addition, changes resulting from unplanned tariff increases or other unusual cost increases or decreases which occur during the year, will be reflected in the bill.

7. New billing format. Instead of just listing the dollar amount to be billed, the new billing format will provide: (1) the number of calls, (2) the number of minutes, (3) average holding time, (4) the commercial equivalent, and (5) the percentage discount (see Attachment A, Part II). This billing data and a microfiche copy of the automatic message accounting (AMA) sample call detail will better inform agencies of their calling patterns and aid them in the management and control of the intercity telephone cost.

8. Increase to 24 hours of traffic. At the same time the new system is implemented, a change will be made to a 24-hour traffic day, seven days a week, instead of the 9-hour day that GSA (or FTS) has been billed in the past. The out-of-hours traffic will be priced against evening and night rates and will therefore be much less than the business day rate.

9. Information and assistance. Assistance or information on this subject should be directed to Robert C. Ford, Jr. at:

General Services Administration
Financial Management Division (KXMT)
Washington, DC 20405
Telephone: FTS, 566-1186 or (202) 566-1186



FRANK J. CARR
Assistant Administrator for
Information Resources Management

**GENERAL SERVICES ADMINISTRATION
WASHINGTON, D. C. 20405**

March 8, 1983

**GSA BULLETIN FPMR F-150
ADP AND TELECOMMUNICATIONS**

TO: Heads of Federal agencies

SUBJECT: Control of intercity telephone cost

1. Purpose. This bulletin provides for the use of the Federal Telecommunications System (FTS) sample calling data to help agencies develop telephone usage control and management programs.

2. Expiration date. This bulletin contains material of a continuing nature and will remain in effect until canceled.

3. Background.

a. GSA samples intercity telephone calls to determine the percentage of the FTS intercity bill each using agency should pay. Most of the call sampling information is automatically recorded. The automatic sampling provides originating number, destination number, connect time, length of call and date. This information can be used to help agencies control intercity telephone cost.

b. The Automatic Message Accounting (AMA) calling sample is conducted 24 hours a day and 7 days a week. However, only those call completed minutes between 8:00 a.m. and 5:00 p.m. Monday through Friday are used for billing purposes.

c. GSA encourages agencies to make maximum official use of the intercity network for both data and voice transmission during off-peak periods. Therefore, it is GSA's policy not to allocate costs to agencies for traffic placed on the network between the hours of 5:00 p.m. and 8:00 a.m. daily and all day weekends and holidays.

4. Request for AMA information. An agency may request all or any part of its AMA information, as follows:

a. Use of GSA Form 1810. All requests should be made on GSA Form 1810, AMA Recorded Message Request, and mailed to General Services Administration (KHIS), Washington, DC 20405. Attachment A is a copy of GSA Form 1810. Supplies of this form may be obtained from the General Services Administration (WBRD-D), Union and Franklin Streets Annex, Building 11, Alexandria, VA. 22314, or the form may be reproduced locally if volume is low.

Attachment

March 8, 1983

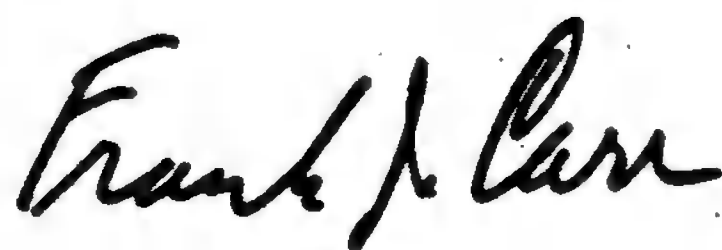
b. Availability of information. Agency intercity calling information is available on magnetic tape or hard copy within 75 days after the month of record. A 12-month history file is maintained for monthly, quarterly, semiannual, or annual requests.

c. Requests. Requests can be made for all agency calls by agency code or bureau code, or special requests for up to 10 originating or destination numbers may be made. The type of request can be tailored to on-net or off-net, after hours, weekends and holidays, current month billing, prior month, length of call, or any combination of the call characteristics that would be useful to the agency.

5. Information or assistance. Information or assistance may be obtained by contacting:

General Services Administration (KHIS)
Washington, DC 20405

Telephone: FTS 566-0956



FRANK J. CARR
Assistant Administrator for
Information Resources Management

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ATTACHMENT I

DO NOT PAY THESE CHARGES

THEY HAVE BEEN PAID BY THE SIBAC SYSTEM

PAYING OFFICE: 41-00-0001
DIRECTOR, OFFICE OF ADMINISTRATION
MERIT SYSTEMS PROTECTION BOARD
1717 H STREET, NW, ROOM 256
WASHINGTON DC 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

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BASE INV.	\$4,705.98	COMM.DIST.	\$606.30	MSG.UNIT	\$729.42	MAIN LINES	252	C/B REBILLS	
INV.CHNGS.	\$0.00	TOLLS	\$93.26	MSG UNIT ADJ.	\$0.00	INSTRUMENTS	256		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$3.16	MISC.CHGS.	\$0.00	NO.MSG UNIT	14,884		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$361.74-				\$0.00
CUSTOMER TOTAL								\$5,776.38	

09/30/83

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	09/02/83	INTERNATIONAL CALL	2299	0022			WASHINGTONDC		220	JAPAN	0.00	42.62
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 42.62	TOTAL CHARGE		42.62		
	09/09/83	INTERNATIONAL CALL	1009	0034		220	JAPAN			WASH DC	0.00	42.44
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 42.44	TOTAL CHARGE		42.44		
	08/01/83	COLLECT CALL	1042	0002			WASHINGTONDC			BARSTOW CA	0.00	4.23
	08/31/83	COLLECT CALL	1303	0002			WASHINGTONDC			HAVLCK NC	0.00	3.97
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 8.20	TOTAL CHARGE		8.20		
		TOTALS FOR CUSTOMER 350207				TAX 0.00	TOLL CHARGE 93.26	TOLL REGISTERS 0.00		TOTAL CHARGE 93.26		

b6
b7C

DATE 11/22/83
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 304731

* DO NOT PAY THESE CHARGES *
* THEY HAVE BEEN PAID BY THE SIBAC SYSTEM *

PAYING OFFICE: 41-00-0001
DIRECTOR, OFFICE OF ADMINISTRATION
MERIT SYSTEMS PROTECTION BOARD
1717 H STREET, NW, ROOM 256
WASHINGTON DC 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$4,758.30	COMM.DIST.	\$1,103.60	MSG.UNIT	\$635.76	MAIN LINES	251	C/B REBILLS	
INV.CHNGS.	\$227.77	TOLLS	\$82.57	MSG UNIT ADJ.	\$0.00	INSTRUMENTS	257		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	12,973		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$604.05				\$0.00
CUSTOMER TOTAL								\$7,412.05	

10/31/83

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	09/15/83	TOLL REGISTER									0.00	0.65
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 0.65	TOTAL CHARGE 0.65				
	09/27/83	COLLECT CALL	0815	0001			WASHINGTONDC			CATONS MD	0.00	2.03
	09/28/83	THIRD NUMBER CALL	1552	0025			HAMILTON ON			BUFFALO NY	0.00	8.90
	09/29/83	THIRD NUMBER CALL	1605	0017			HAMILTON ON			BUFFALO NY	0.00	6.50
	09/29/83	THIRD NUMBER CALL	1406	0020			HAMILTON ON			BUFFALO NY	0.00	7.40
	09/30/83	THIRD NUMBER CALL	1050	0031			HAMILTON ON			BUFFALO NY	0.00	10.70
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 35.53	TOTAL CHARGE 35.53				
	10/14/83	DIRECT DIAL CALL	1125	0042			HAMILTON ON			WASH DC	0.00	21.15
		TOTALS FOR STATION 653-7656				TAX 0.00	TOLL CHARGE 21.15	TOTAL CHARGE 21.15				
	09/06/83	INTERNATIONAL CALL	2299	0011			WASHINGTONDC			JAPAN	0.00	25.24
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 25.24	TOTAL CHARGE 25.24				
		TOTALS FOR CUSTOMER 350207				TAX 0.00	TOLL CHARGE 81.92	TOLL REGISTERS 0.65		TOTAL CHARGE 82.57		

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DATE 12/22/83
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 304911

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PAYING OFFICE: 41-00-0001
DIRECTOR, OFFICE OF ADMINISTRATION
MERIT SYSTEMS PROTECTION BOARD
1717 H STREET, NW, ROOM 256
WASHINGTON DC 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$4,795.54	COMM.DIST.	\$1,090.25	MSG.UNIT	\$0.00	MAIN LINES	251	C/B REBILLS	
INV.CHNGS.	\$172.64-	TOLLS	\$0.65	MSG UNIT ADJ.	\$0.00	INSTRUMENTS	256		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	0		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$246.03				\$0.00
CUSTOMER TOTAL								\$5,959.83	

11/29/83

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 350

CUST NO 207

RAD CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	10/15/83	TOLL REGISTER									0.00	0.65
TOTALS FOR STATION												
			TAX	0.00	TOLL CHARGE	0.65	TOTAL CHARGE	0.65				
TOTALS FOR CUSTOMER 350207			TAX	0.00	TOLL CHARGE	0.00	TOLL REGISTERS	0.65	TOTAL CHARGE	0.65		

b6
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DATE 01/22/84
ACCTG CENTER 5

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 305100

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PAYING OFFICE: 41-00-0001
DIRECTOR, OFFICE OF ADMINISTRATION
MERIT SYSTEMS PROTECTION BOARD
1717 H STREET, NW, ROOM 256
WASHINGTON DC 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$4,813.32	COMM.DIST.	\$1,116.95	MSG.UNIT	\$636.65	MAIN LINES	251	C/B REBILLS	
INV.CHNGS.	\$29.74	TOLLS	\$6.15	MSG UNIT ADJ.	\$0.00	INSTRUMENTS	257		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$6.42	NO.MSG UNIT	12,733		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$0.00				\$0.00
CUSTOMER TOTAL								\$6,609.23	

12/30/83

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 350

CUST NO 207

RAD CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	10/27/83	DIRECT DIAL CALL	1519	0012			HAMILTON ON			WASH DC	0.00	6.15
TOTALS FOR STATION					TAX	0.00	TOLL CHARGE	6.15	TOTAL CHARGE	6.15		
TOTALS FOR CUSTOMER 350207			TAX	0.00	TOLL CHARGE	6.15	TOLL REGISTERS	0.00	TOTAL CHARGE	6.15		

b6
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DATE 02/22/84
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 305272

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PAYING OFFICE: 41-00-0001
DIRECTOR, OFFICE OF ADMINISTRATION
MERIT SYSTEMS PROTECTION BOARD
1717 H STREET, NW, ROOM 256
WASHINGTON DC 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$4,973.85	COMM.DIST.	\$1,116.95	MSG.UNIT	\$1,177.50	MAIN LINES	251	C/B REBILLS	
INV.CHNGS.	\$0.00	TOLLS	\$55.19	MSG UNIT ADJ.	\$1.13	INSTRUMENTS	257		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	23,550		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$595.44				\$0.00
CUSTOMER TOTAL								\$6,729.18	

- 01/27/84

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	12/09/83	COLLECT CALL	0712	0001			WASHINGTONDC			SEATTLE WA	0.00	1.84
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 1.84	TOTAL CHARGE		1.84		
	11/29/83	COLLECT CALL	0858	0002			WASHINGTONDC			CATONS MD	0.00	2.31
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 2.31	TOTAL CHARGE		2.31		
	11/22/83	DIRECT DIAL CALL	1253	0035			BIXBYNORTHOK			WASH DC	0.00	15.60
	01/11/84	DIRECT DIAL CALL	1540	0004			BIXBYNORTHOK			WASH DC	0.00	1.96
	01/11/84	DIRECT DIAL CALL	1546	0022			BIXBYNORTHOK			WASH DC	0.00	9.88
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 27.44	TOTAL CHARGE		27.44		
	11/22/83	INTERNATIONAL CALL	2299	0008			WASHINGTONDC			JAPAN	0.00	20.50
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 20.50	TOTAL CHARGE		20.50		
	12/01/83	MISCELLANEOUS CALL	1623	0006			900SERVICE			WASH DC	0.00	2.25
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 2.25	TOTAL CHARGE		2.25		
	11/30/83	MISCELLANEOUS CALL	0840	0002			900SERVICE			WASH DC	0.00	0.85
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 0.85	TOTAL CHARGE		0.85		
		TOTALS FOR CUSTOMER 350207				TAX 0.00	TOLL CHARGE 55.19	TOLL REGISTERS 0.00		TOTAL CHARGE 55.19		

b6
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DATE 03/22/84
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 305451

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PAYING OFFICE: 41-00-0001
MERIT SYSTEMS PROTECTION BOARD
BUDGET AND FINANCE DIVISION
1120 VERMONT AVE., N.W., RM 908
WASHINGTON, D.C. 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$4,956.33	COMM.DIST.	\$1,116.95	MSG.UNIT	\$976.83	MAIN LINES	251	C/B REBILLS	
INV.CHNGS.	\$196.43	TOLLS	\$20.64	MSG UNIT ADJ.	\$4.85	INSTRUMENTS	259		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$5.02	NO.MSG UNIT	14,155		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$24.00				\$0.00
CUSTOMER TOTAL								\$7,301.05	

02/28/84

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	01/27/84	COLLECT CALL	1017	0002			WASHINGTONDC			SAN FRAN CA	0.00	2.78
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 2.78	TOTAL CHARGE		2.78		
	01/18/84	DIRECT DIAL CALL	1500	0033			BIXBYNORTHOK			WASH DC	0.00	14.72
	01/24/84	DIRECT DIAL CALL	0956	0003			BIXBYNORTHOK			WASH DC	0.00	1.52
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 16.24	TOTAL CHARGE		16.24		
	11/15/83	TOLL REGISTER									0.00	1.62
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 1.62	TOTAL CHARGE		1.62		
		TOTALS FOR CUSTOMER 350207				TAX 0.00	TOLL CHARGE 19.02	TOLL REGISTERS 1.62		TOTAL CHARGE 20.64		

b6
b7C

DATE 04/22/84
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 305639

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PAYING OFFICE: 41-00-0001
MERIT SYSTEMS PROTECTION BOARD
BUDGET AND FINANCE DIVISION
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WASHINGTON, D.C. 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$4,990.93	COMM.DIST.	\$1,116.95	MSG.UNIT	\$839.21	MAIN LINES	251	C/B REBILLS	
INV.CHNGS.	\$5.96	TOLLS	\$80.80	MSG UNIT ADJ.	\$16.40	INSTRUMENTS	260		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	12,160		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$464.00				\$0.00
CUSTOMER TOTAL								\$7,514.25	

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	03/12/84	COLLECT CALL	0953	0009	202-653-7119		WASHINGTONDC			NEWARK NJ	0.00	5.25
		TOTALS FOR STATION			TAX	0.00	TOLL CHARGE	5.25	TOTAL CHARGE	5.25		
	01/19/84	COLLECT CALL	0939	0001	202-653-7158		WASHINGTONDC			GLEN BR MD	0.00	2.03
		TOTALS FOR STATION			TAX	0.00	TOLL CHARGE	2.03	TOTAL CHARGE	2.03		
	03/12/84	INTERNATIONAL CALL	1503	0031		800	ITALY			WASH DC	0.00	31.78
	03/13/84	INTERNATIONAL CALL	1501	0011		800	ITALY			WASH DC	0.00	11.78
	03/14/84	INTERNATIONAL CALL	1505	0003		800	ITALY			WASH DC	0.00	3.78
	03/15/84	INTERNATIONAL CALL	1504	0014		800	ITALY			WASH DC	0.00	14.78
	03/16/84	INTERNATIONAL CALL	1510	0009		800	ITALY			WASH DC	0.00	9.78
		TOTALS FOR STATION			TAX	0.00	TOLL CHARGE	71.90	TOTAL CHARGE	71.90		
	11/15/83	TOLL REGISTER									0.00	1.62
		TOTALS FOR STATION			TAX	0.00	TOLL CHARGE	1.62	TOTAL CHARGE	1.62		
		TOTALS FOR CUSTOMER 350207			TAX	0.00	TOLL CHARGE	79.18	TOLL REGISTERS	1.62	TOTAL CHARGE	80.80

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b7C

DATE 05/22/84
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 305832

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MERIT SYSTEMS PROTECTION BOARD
BUDGET AND FINANCE DIVISION
1120 VERMONT AVE., N.W., ROOM 908
WASHINGTON, D.C. 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$4,813.17	COMM.DIST.	\$1,170.35	MSG.UNIT	\$892.30	MAIN LINES	253	C/B REBILLS	
INV.CHNGS.	\$367.96	TOLLS	\$6.20	MSG UNIT ADJ.	\$1.74	INSTRUMENTS	260		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	12,930		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$3,165.90				\$0.00
CUSTOMER TOTAL								\$10,417.62	

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE	
	04/12/84	COLLECT CALL	1258	0007			WASHINGTONDC			ATLANTA	0.00	6.20	
TOTALS FOR STATION						TAX	0.00	TOLL CHARGE	6.20	TOTAL CHARGE	6.20		
TOTALS FOR CUSTOMER 350207						TAX	0.00	TOLL CHARGE	6.20	TOLL REGISTERS	0.00	TOTAL CHARGE	6.20

b6
b7C

DATE 06/22/84
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 306024

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BUDGET AND FINANCE DIVISION
1120 VERMONT AVE., N.W., ROOM 908
WASHINGTON, D.C. 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	65,044.26	COMM. DIST.	\$1,237.10	MSG. UNIT	\$912.68	MAIN LINES	265	C/B REBILLS	
INV. CHNGS.	\$147.51	TOLLS	\$0.00	MSG UNIT ADJ.	\$0.00	INSTRUMENTS	258		\$0.00
NON-RECURR.	\$715.00	TOLL ADJ.	\$0.00	MISC. CHGS.	\$0.00	NO. MSG UNIT	13,224		\$0.00
SURCHARGE	\$0.00	ELEC. SERV	\$0.00	SVCHG. ADJ	\$399.58				\$0.00
CUSTOMER TOTAL								\$8,456.13	

DATE 07/22/84
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 306216

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MERIT SYSTEMS PROTECTION BOARD
BUDGET AND FINANCE DIVISION
1120 VERMONT AVE., N.W., ROOM 908
WASHINGTON, D.C. 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$5,500.55	COMM.DIST.	\$1,188.15	MSG.UNIT	\$932.21	MAIN LINES	266	C/B REBILLS	
INV.CHNGS.	\$49.41	TOLLS	\$14.28	MSG UNIT ADJ.	\$0.00	INSTRUMENTS	258		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	13,509		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$3,029.70				\$0.00
CUSTOMER TOTAL								\$10,714.30	

06/29/84

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	05/23/84	COLLECT CALL	0723	0002			WASHINGTONDC			CLRDSP	CO 0.00	1.98
	05/23/84	COLLECT CALL	1339	0004			WASHINGTONDC			CLRDSP	CO 0.00	3.51
	05/25/84	COLLECT CALL	1302	0001			WASHINGTONDC			CLRDSP	CO 0.00	2.15
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 7.64			TOTAL CHARGE		7.64
	05/23/84	ZONE MESSAGE	1428	0000			WASHINGTONDC			WASH	DC 0.00	0.65
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 0.65			TOTAL CHARGE		0.65
	05/15/84	COLLECT CALL	0851	0001			WASHINGTONDC			OAKLAND	CA 0.00	3.74
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 3.74			TOTAL CHARGE		3.74
	06/18/84	MISCELLANEOUS CALL	0754	0006			900SERVICE			WASH	DC 0.00	2.25
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 2.25			TOTAL CHARGE		2.25
		TOTALS FOR CUSTOMER 350207				TAX 0.00	TOLL CHARGE 14.28			TOLL REGISTERS 0.00		TOTAL CHARGE 14.28

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b7C

DATE 09/22/84
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 306599

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BUDGET AND FINANCE DIVISION
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WASHINGTON, D.C. 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$5,512.59	COMM.DIST.	\$1,183.70	MSG.UNIT	\$929.43	MAIN LINES	266	C/B REBILLS	
INV.CHNGS.	\$6.21	TOLLS	\$41.97	MSG UNIT ADJ.	\$9.93	INSTRUMENTS	255		\$0.00
NON-RECURR.	\$327.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	13,468		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ.	\$0.00				\$0.00
CUSTOMER TOTAL								\$8,010.83	

DATE 08/22/84
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

BILL NO: 306412

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PAYING OFFICE: 41-00-0001
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BUDGET AND FINANCE DIVISION
1120 VERMONT AVE., N.W., ROOM 908
WASHINGTON, D.C. 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$5,516.19	COMM.DIST.	\$1,183.70	MSG UNIT	\$795.71	MAIN LINES	266	C/B REBILLS	
INV.CHNGS.	\$70.62-	TOLLS	\$0.00	MSG UNIT ADJ.	\$0.00	INSTRUMENTS	255		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$32.00-	NO.MSG UNIT	11,531		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$28.00				\$0.00

CUSTOMER TOTAL \$7,420.98

08/31/84

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	04/15/84	TOLL REGISTER									0.00	1.23
	07/17/84	COLLECT CALL	1342	0007			WASHINGTONDC			LONGVM	0.00	6.45
	08/02/84	COLLECT CALL	1129	0003			WASHINGTONDC			MEBANE	0.00	2.83
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 10.51			TOTAL CHARGE 10.51		
	08/07/84	COLLECT CALL	0858	0025			WASHINGTONDC			OCEN V	DE 0.00	11.94
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 11.94			TOTAL CHARGE 11.94		
	07/20/84	COLLECT CALL	1600	0003			WASHINGTONDC			WMSBG	VA 0.00	4.24
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 4.24			TOTAL CHARGE 4.24		
	05/15/84	TOLL REGISTER									0.00	2.79
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 2.79			TOTAL CHARGE 2.79		
	07/23/84	COLLECT CALL	1137	0002			WASHINGTONDC			BALTO	MD 0.00	2.26
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 2.26			TOTAL CHARGE 2.26		
	08/08/84	COLLECT CALL	0956	0009			WASHINGTONDC			OCEN V	DE 0.00	6.34
	08/10/84	COLLECT CALL	0844	0002			WASHINGTONDC			OCEN V	DE 0.00	3.89
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 10.23			TOTAL CHARGE 10.23		
		TOTALS FOR CUSTOMER 350207				TAX 0.00	TOLL CHARGE 37.95			TOLL REGISTERS 4.02	TOTAL CHARGE 41.97	

b6
b7C

DATE 11/22/84
ACCTG CENTER 9

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIDAC

PAGE NO: 0001
BILL NO: J0007528

DO NOT PAY THESE CHARGES

THEY HAVE BEEN PAID BY THE SIDAC SYSTEM

PAYING OFFICE: 41-00-0001
MERIT SYSTEMS PROTECTION BOARD
BUDGET AND FINANCE DIVISION
1120 VERMONT AVE., N.W., ROOM 908
WASHINGTON, D.C. 20419

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$5,527.20	COMM. DIST.	\$1,183.70	MSG UNIT	\$1,450.97	MAIN LINES	246	C/B REBILLS	
INV. CHNGS.	\$0.50	TOLLS	\$7.44	MSG UNIT ADJ.	\$90.37	INSTRUMENTS	255		\$0.00
NON-RECURR.	\$374.00	TOLL ADJ.	\$0.00	MISC. CHOS.	\$0.00	NO. MSG UNIT	23,924		\$0.00
SURCHARGE	\$0.00	ELEC. SERV	\$0.00	SVCHO. ADJ.	\$165.00				\$0.00
CUSTOMER TOTAL								\$8,999.18	

10/26/84 TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT											
STAT NO J0007528			SYST NO 350			CUST NO 207			PAYSTATION NO 41000001		
						RAO CODE 032			PAGE 000001		
BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	COMM TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX
	10/02/84	DIRECT DIAL CALL	1418	0012			COLUMBIA MD			HASH	DC 0.00
		TOTALS FOR STATION									3.31
		TAX			0.00		TOLL CHARGE	3.31		TOTAL CHARGE	3.31
	09/27/84	ZONE MESSAGE	1513	0000			FLS CHURCHVA			HASH	DC 0.00
		TOTALS FOR STATION									0.65
		TAX			0.00		TOLL CHARGE	0.65		TOTAL CHARGE	0.65
	10/16/84	INTERNATIONAL CALL	1119	0002			GER FED RP			HASH	DC 0.00
		TOTALS FOR STATION									3.48
		TAX			0.00		TOLL CHARGE	3.48		TOTAL CHARGE	3.48
TOTALS FOR CUSTOMER 350207					TAX	0.00	TOLL CHARGE	7.44		TOLL REGISTERS	0.00
										TOTAL CHARGE	7.44

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DATE 12/22/84
ACCIG CENTER 9

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: J0015069

* DO NOT PAY THESE CHARGES *
* THEY HAVE BEEN PAID BY THE SIBAC SYSTEM *

PAYING OFFICE: 12-40-0001
USDA, OFFICE OF OPERATIONS & FINANCE
NATL FINANCE CENTER, ACCOUNTING DIV.
P.O. BOX 61700
NEW ORLEANS, LA 70161

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$5,423.74	COMM.DIST.	\$1,205.95	MSG.UNIT	\$0.00	MAIN LINES	262	C/B REBILLS	
INV.CHNGS.	\$90.25	TOLLS	\$0.00	MSG UNIT ADJ.	\$85.43	INSTRUMENTS	255		\$0.00
NON-RECURR.	\$348.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	0		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$703.74				\$0.00

CUSTOMER TOTAL \$7,857.11

DATE 01/22/85
ACCTG CENTER 9

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: J0022771

* DO NOT PAY THESE CHARGES *
*
* THEY HAVE BEEN PAID BY THE SIBAC SYSTEM *

PAYING OFFICE: 12-40-0001
USDA, OFFICE OF OPERATIONS & FINANCE
NATL FINANCE CENTER, ACCOUNTING DIV.
P.O. BOX 61700
NEW ORLEANS, LA 70161

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$4,530.39	COMM.DIST.	\$1,157.00	MSG.UNIT	\$877.96	MAIN LINES	261	C/B REBILLS	
INV.CHNGS.	\$43.09	TOLLS	\$33.15	MSG UNIT ADJ.	\$0.00	INSTRUMENTS	255		\$0.00
NON-RECURR.	\$268.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$1.00-	NO.MSG UNIT	12,722		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$0.00				\$0.00
CUSTOMER TOTAL								\$6,908.59	

STAT NO J0022771

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	10/26/84	ZONE MESSAGE	1433	0004			WASHINGTONDC			WASH DC	0.00	0.80
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 0.80			TOTAL CHARGE 0.80		
	10/22/84	COLLECT CALL	1700	0025			WASHINGTONDC			MIAMI FL	0.00	7.81
	10/23/84	COLLECT CALL	1726	0027			WASHINGTONDC			MIAMI FL	0.00	8.30
	11/14/84	COLLECT CALL	0921	0008			WASHINGTONDC			BALTO MD	0.00	3.82
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 19.93			TOTAL CHARGE 19.93		
	10/29/84	INTERNATIONAL CALL	1246	0003		580	GER FED RP			WASH DC	0.00	4.73
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 4.73			TOTAL CHARGE 4.73		
	10/18/84	COLLECT CALL	1253	0002			WASHINGTONDC			SAN FRAN CA	0.00	4.15
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 4.15			TOTAL CHARGE 4.15		
	11/02/84	COLLECT CALL	1512	0001			WASHINGTONDC			HAMPTON VA	0.00	3.54
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 3.54			TOTAL CHARGE 3.54		
		TOTALS FOR CUSTOMER 350207				TAX 0.00	TOLL CHARGE 33.15			TOLL REGISTERS 0.00		TOTAL CHARGE 33.15

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DATE 02/22/85
ACCTG CENTER 9

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: J0030417

* D O D N O T P A Y T H E S E C H A R G E S *
*
* THEY HAVE BEEN PAID BY THE SIBAC SYSTEM *

PAYING OFFICE: 12-40-0001
USDA, OFFICE OF OPERATIONS & FINANCE
NATL FINANCE CENTER, ACCOUNTING DIV.
P.O. BOX 61700
NEW ORLEANS, LA 70161

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$3,684.44	COMM.DIST.	\$1,134.75	MSG.UNIT	\$806.85	MAIN LINES	258	C/B REBILLS	
INV.CHNGS.	\$46.64	TOLLS	\$0.00	MSG UNIT ADJ.	\$0.83	INSTRUMENTS	0		\$0.00
NON-RECURR.	\$2,447.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	11,677		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$0.00				\$0.00
CUSTOMER TOTAL								\$8,120.51	

DATE 03/22/85
ACCTG CENTER 9

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: J0038103

* DO NOT PAY THESE CHARGES *
* THEY HAVE BEEN PAID BY THE SIBAC SYSTEM *

PAYING OFFICE: 12-40-0001
USDA, OFFICE OF OPERATIONS & FINANCE
NATL FINANCE CENTER, ACCOUNTING DIV.
P.O. BOX 61700
NEW ORLEANS, LA 70161

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$3,735.40	COMM: DIST.	\$1,148.10	MSG. UNIT	\$753.62	MAIN LINES	258	C/B REBILLS	
INV. CHNGS.	\$0.00	TOLLS	\$0.00	MSG UNIT ADJ.	\$0.07	INSTRUMENTS	0		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC. CHGS.	\$0.00	NO. MSG UNIT	10,921		\$0.00
SURCHARGE	\$0.00	ELEC. SERV	\$0.00	SVCHG. ADJ	\$115.00				\$0.00
CUSTOMER TOTAL								\$5,752.19	

DATE 05/22/85
ACCTG CENTER 9

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: J0053672

* DO NOT PAY THESE CHARGES *
*
* THEY HAVE BEEN PAID BY THE SIBAC SYSTEM *

PAYING OFFICE: 12-40-0001
USDA, OFFICE OF OPERATIONS & FINANCE
NATL FINANCE CENTER, ACCOUNTING DIV.
P.O. BOX 61700
NEW ORLEANS, LA 70161

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1120 VERMONT AVE
WASHINGTON DC 20419

BASE INV.	\$3,780.05	COMM.DIST.	\$1,152.55	MSG.UNIT	\$736.28	MAIN LINES	259	C/B REBILLS	
INV.CHNGS.	\$221.13	TOLLS	\$0.00	MSG UNIT ADJ.	\$0.00	INSTRUMENTS	2		\$0.00
NON-RECURR.	\$0.00	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	10,669		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$0.00				\$0.00
CUSTOMER TOTAL								\$5,890.01	

FP MR 101-11.4
October 1982

GENERAL RECORDS SCHEDULE 12

Communications Records

The principal records documenting communication functions include messenger service data; telecommunications service control and operational records; summary of long distance telephone reports; postal records, consisting of post office forms and supporting papers; mail control records and supporting and related papers; agency copies of penalty mail reports; and records relating to private delivery services (such as United Parcel Service).

This schedule covers the records described below, wherever located in an agency, but does not cover records which reflect Government-wide programs, such as records held by the U.S. Postal Service and the Automated Data and Telecommunications Service of the General Services Administration, rather than administrative management functions. Any records created prior to January 1, 1921, must be offered to the National Archives and Records Service before applying these disposition instructions.

ITEM NO.	DESCRIPTION OF RECORDS	AUTHORIZED DISPOSITION
1.	<u>Messenger Service Files.</u> Daily logs, assignment records and instructions, dispatch records, delivery receipts, route schedules, and related records.	Destroy when 1 months old.
2.	<u>Communication Correspondence, Reports, and Reference Files.</u> a. Correspondence and related records pertaining to internal administration and operation. b. Telecommunications general files including plans, reports, and other records pertaining to equipment requests, telephone service, and like matters. c. Telecommunications statistical reports including cost and volume data. d. Telecommunications reference voucher files. (1) Reference copies of vouchers, bills, invoices, and related records.	Destroy when 2 years old. Destroy when 3 years old. Destroy when 1 year old. Destroy when 1 fiscal year old.

SYST NO 351

CUST NO 207

RAD CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	10/27/81	COLLECT CALL	1137	0002			WASHINGTONDC			CRTMDR	CA 0.00	4.35
	TOTALS FOR STATION											
	12/09/81	COLLECT CALL	1632	0001			WASHINGTONDC			NEWYORK	NY 0.00	2.40
	01/07/82	COLLECT CALL	1519	0002			WASHINGTONDC			XENIA	OH 0.00	2.45
		TOTALS FOR STATION										
	12/28/81	DIRECT DIAL CALL	1404	0002			CLEVELAND OH			WASH	DC 0.00	1.00
	TOTALS FOR STATION											
TOTALS FOR CUSTOMER 351207			TAX	0.00	TOLL CHARGE	10.20	TOLL REGISTERS	0.00	TOTAL CHARGE	10.20		

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

FILE COPY

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ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

02/27/82

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 351

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE							
	12/15/81	TOLL REGISTER									0.00	0.82							
TOTALS FOR STATION												TAX	0.00	TOLL CHARGE	0.82	TOTAL CHARGE	0.82		
TOTALS FOR CUSTOMER 351207												TAX	0.00	TOLL CHARGE	0.00	TOLL REGISTERS	0.82	TOTAL CHARGE	0.82

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DATE 03/22/82
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 30132

* DO NOT PAY THESE CHARGES *
*
* THEY HAVE BEEN PAID BY THE SIBAC SYSTEM *

PAYING OFFICE: 41-00-0001
DIRECTOR, OFFICE OF ADMINISTRATION
MERIT SYSTEMS PROTECTION BOARD
1717 H STREET, NW, ROOM 256
WASHINGTON DC 20419

351207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1717 H STR NW ROOM 256 ATT J WILKERSH
WASHINGTON DC 20419

BASE INV.	\$2,138.78	COMM. DIST.	\$161.00	MSG. UNIT	\$0.00	NO. MAINS	206	C/B REBILLS	
INV. CHNGS.	\$2,770.17	TOLLS	\$0.82	MSG UNIT ADJ.	\$81.78	NO. EXTNS	3		\$0.10
NON-RECURR.	\$3,760.20	TOLL ADJ.	\$0.00	MISC. CHGS.	\$0.00	NO. MSG UNIT	0		\$0.10
SURCHARGE	\$0.00								\$0.10

CUSTOMER TOTAL 63,050.41

DATE 04/22/82
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 301495

* DO NOT PAY THESE CHARGES *
*
* THEY HAVE BEEN PAID BY THE SIBAC SYSTEM *

PAYING OFFICE: 41-00-0001
DIRECTOR, OFFICE OF ADMINISTRATION
MERIT SYSTEMS PROTECTION BOARD
1717 H STREET, NW, ROOM 256
WASHINGTON DC 20419

351207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1717 H STR NW ROOM 258 ATT J WILKERSN
WASHINGTON DC 20419

BASE INV.	\$2,597.90	COMM.DIST.	\$625.60	MSG UNIT	\$1,465.32	NO.MAINS	218	C/B REBILLS	
INV.CHNGS.	\$1,570.83	TOLLS	\$368.52	MSG UNIT ADJ.	\$0.00	NO.EXTNS	0		\$0.00
NON-RECURR.	\$51.45	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	24,422		\$0.00
SURCHARGE	\$0.00								\$0.00

CUSTOMER TOTAL \$6,679.62

DATE 07/22/83
ACCTG CENTER 3

GENERAL SERVICES ADMINISTRATION
CUSTOMER BILLING CONTROL REPORT
FOR SIBAC

PAGE NO: 0001
BILL NO: 304029

* DO NOT PAY THESE CHARGES *
*
* THEY HAVE BEEN PAID BY THE SIBAC SYSTEM *

PAYING OFFICE: 41-00-0001
DIRECTOR, OFFICE OF ADMINISTRATION
MERIT SYSTEMS PROTECTION BOARD
1717 H STREET, NW, ROOM 256
WASHINGTON DC 20419

FILE COPY

350207 MERIT SYSTEMS PROTECTION BOARD
ADMINISTRATIVE SERVICES BRANCH
1717 H STR NW ROOM 258 ATT J WILKERSH
WASHINGTON DC 20419

BASE INV.	\$4,500.32	COMM.DIST.	\$643.90	MSG.UNIT	\$768.46	MAIN LINES	248	C/B REBILLS	
INV.CHNGS.	\$374.89	TOLLS	\$3.20	MSG UNIT ADJ.	\$585.13	INSTRUMENTS	262		\$0.00
NON-RECURR.	\$436.82	TOLL ADJ.	\$0.00	MISC.CHGS.	\$0.00	NO.MSG UNIT	15,682		\$0.00
SURCHARGE	\$0.00	ELEC.SERV	\$0.00	SVCHG.ADJ	\$0.00				\$0.00
CUSTOMER TOTAL								\$7,312.72	

03/31/82

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 351

CUST NO 207

RAD CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	12/28/81	COLLECT CALL	1024	0002			WASHINGTONDC			NEWYORK NY	0.00	2.40
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 2.40			TOTAL CHARGE 2.40		
	02/22/82	INTERNATIONAL CALL	2001	0042		310	JAPAN			WASH DC	0.00	73.80
	03/05/82	INTERNATIONAL CALL	2024	0110		310	JAPAN			WASH DC	0.00	189.15
	03/05/82	INTERNATIONAL CALL	2002	0001		310	JAPAN			WASH DC	0.00	9.45
	02/02/82	DIRECT DIAL CALL	1446	0001			CONCORD MA			WASH DC	0.00	0.58
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 272.98			TOTAL CHARGE 272.98		
	02/19/82	INTERNATIONAL CALL	2000	0036		444	JAPAN			WASH DC	0.00	63.90
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 63.90			TOTAL CHARGE 63.90		
	03/08/82	COLLECT CALL	1519	0008			WASHINGTONDC			KY WST FL	0.00	4.80
	03/08/82	COLLECT CALL	1540	0003			WASHINGTONDC			KY WST FL	0.00	2.60
	03/08/82	COLLECT CALL	1104	0003			WASHINGTONDC			KY WST FL	0.00	2.60
	03/08/82	COLLECT CALL	1449	0002			WASHINGTONDC			KY WST FL	0.00	2.60
	03/09/82	COLLECT CALL	1055	0012			WASHINGTONDC			KY WST FL	0.00	6.56
	03/08/82	THIRD NUMBER CALL	1528	0008			NEW YORK NY			KY WST FL	0.00	4.80
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 23.96			TOTAL CHARGE 23.96		
	02/01/82	THIRD NUMBER CALL	1825	0001			AIKEN SC			WASH DC	0.00	2.50
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 2.50			TOTAL CHARGE 2.50		
	02/18/82	DIRECT DIAL CALL	1142	0002			OCCOQUAN VA			WASH DC	0.00	0.49
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 0.49			TOTAL CHARGE 0.49		
	01/21/82	DIRECT DIAL CALL	1117	0005			CHAMBLEE GA			WASH DC	0.00	2.29
		TOTALS FOR STATION				TAX 0.00	TOLL CHARGE 2.29			TOTAL CHARGE 2.29		
		TOTALS FOR CUSTOMER 351207				TAX 0.00	TOLL CHARGE 368.52			TOLL REGISTERS 0.00		TOTAL CHARGE 368.52

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07/01/83

TELEPHONE INVENTORY ACCOUNTING SYSTEM TOLL BILLINGS REPORT

PAYSTATION NO: 41000001

PAGE 000001

SYST NO 350

CUST NO 207

RAO CODE 032

BILLED NUMBER	TOLL DATE	TOLL DESCRIPTION	CONN TIME	LENGTH CALL	TO NUMBER	INT CDE	TO PLACE	FROM NUMBER	INT CDE	FROM PLACE	LOCAL TAX	TOTAL CHARGE
	05/26/83	THIRD NUMBER CALL	1102	0006			HAMILTON ON			BUFFALO NY	0.00	3.20
TOTALS FOR STATION												
			TAX	0.00	TOLL CHARGE		3.20	TOTAL CHARGE		3.20		
TOTALS FOR CUSTOMER 350207			TAX	0.00	TOLL CHARGE		3.20	TOLL REGISTERS		0.00	TOTAL CHARGE 3.20	

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U.S. MERIT SYSTEMS PROTECTION BOARD
Washington, D.C. 20419

AUG 2 1985

Mr. Kenneth Shuey
c/o Federal Bureau of Investigation
1900 Half Street, S.W.
Eighth Floor
Washington, D.C. 20535

Dear Mr. Shuey:

I am coordinating the response to your request for Chairman Ellingwood's phone records.

The Board possesses 2 types of records which identify calls made on or charged to the numbers on Chairman's phone console. Those numbers are 653-7101, 653-7102, 653-7104 and 653-7114. (The last number, while on the Chairman's console, is the primary phone for Ms. Joyce Keith, Special Assistant to the Chairman). The Board also possesses one type of record that, identifies calls charged by the Chairman to his Board credit card.

The first type of the record which identifies calls made on or charged to the numbers on the phone console is entitled General Services Administration Customer Billing Contract Request for SIBAC. Those monthly reports are appended hereto as Attachment I. Pursuant to General Records Schedule 12 (see 41 C.F.R. Chapter 101 and, more specifically, Federal Property Management Regulations 101-11-4, a copy of which is appended to Attachment I), this type of record is destroyed when it is one fiscal year old. Therefore, except as noted below, these monthly reports start in October 1983 and continue through to the last report we have received which is for May 1985. There are, however, two exceptions. We have not located the reports for October 1984 and April 1985 and have requested copies of them from the National Finance Center of the Department of Agriculture which handles the Board's administrative payments. In addition, the Board's files had accidentally retained 5 monthly reports which are more than one fiscal year old. They, too, are appended to Attachment I.

161-15392-102

In analyzing these SIBAC reports, you should note that the cover sheet, in the second column, contains a charge for toll calls on non-FTS lines which is entitled "Tolls." Where there is a charge for "Tolls," we have appended the itemization of toll calls by "billed number." You will find that only in September of 1984 were there any toll calls for which any of the lines on the Chairman's console was the billed number. In that month, 653-7101 was billed for two collect calls (one from area code 206 and one from area code 919). In fiscal year 1984, these SIBAC reports were circulated for explanations of the charges (a practice which was discontinued in FY 85, when the Board contracted with the National Finance Center to handle its administrative payments). When the September, 1984 SIBAC report was circulated, no one on the Chairman's staff could identify those two calls. In checking on these calls, at that time, it was determined that the first, which had been placed on July 17, 1984, originated from the Thunderbird Motor Inn in Longview, Washington and the second, on August 2, 1984, from a phone booth at a Texaco station on Interstate 85 in Mebane, N.C. The Chairman's log indicates that he was not in the office on August 2, 1984, and that he was probably out of the office at the time of the July 17, 1984 call.

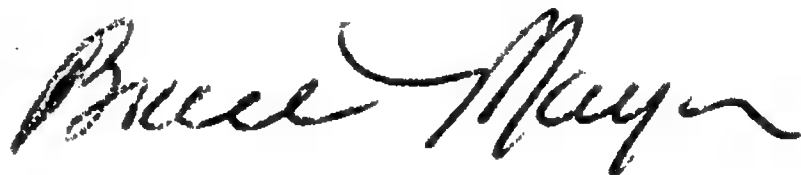
The second of the records which identifies calls made on or charged to the numbers on the Chairman's phone console is entitled AMA Recorded Message Report. Hard copies of the revelant portions of these monthly microfiche reports are appended hereto as Attachment II. These microfiche reports represent a 20% sampling of FTS calls. They are provided by GSA and are explained, or referred to, in GSA bulletins FPMRF-150 and 12 which are appended to Attachment II. The first microfiche report we received covered March 1984 and the last covered November 1984. We have not yet received any later reports since there is an almost nine month time lag in receiving these reports.

In addition to those records, Attachment III contains the billings made on the Chairman's credit card (Calling Card 202-150-4554). These billings are for FY 1984; but note that there is no billing for June, 1985 since the Chairman placed no credit card calls in that month. In FY 1985, the Board shifted to the National Finance Center for its administrative payments. The National Finance Center was instructed pay all charges for credit card calls and not to provide copies of those billings to the Board unless the toll charges exceeded \$400 in any given month; an event which has not occurred. A copy of that

instruction entitled Transmittal - Telephone and Utilities (see Box 27) is appended to Attachment III. In addition, a copy of a document entitled Check Control which indicates that, in FY 1984, the Chairman identified a credit card call made on 11/30/83 as personnel and reimbursed the Board accordingly, is also appended to Attachment III.

If I can be of any further assistance, please call at 653-7162.

Sincerely yours,

A handwritten signature in cursive script that reads "Bruce Mayor".

Bruce Mayor
Deputy General Counsel

Attachments

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ Airtel

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 8/8/85

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-30-2007 BY AUC 60324/BAW/STP/cld

TO: DIRECTOR, FBI
 (ATTENTION: SPIN UNIT, SSA [redacted])

FROM: SAC, ALEXANDRIA (161B-7785) (RUC)

HERBERT EUGENE ELLINGWOOD
 SPECIAL INQUIRY
 BUDED: PAST

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Third Party

Reference Headquarters Supervisor, [redacted]
 telcall to Alexandria Supervisor, [redacted]

Enclosed for the Bureau is a letter sent to MR. FIELDING by ANNE NEAMON dated August 1, 1985, and a news release published by the Citizens for God and Country entitled, "The Inseparable Separation-Atheism-Terrorism".

On August 1, 1985, ANNE NEAMON was contacted by SA [redacted] at telephone number 356-7884 and a meeting was set for 3:45 p.m., on August 1, 1985, at the THREE PIGS Restaurant in McLean, Virginia. NEAMON did not want to meet at her residence in McLean nor would she furnish the address of her residence to SA [redacted]

NEAMON arrived at the THREE PIGS Restaurant in McLean, Virginia, with a manilla folder containing the above enclosures.

She advised that there were ideological violations which were occurring and that the FEDERAL BUREAU OF INVESTIGATION (FBI) should be investigating. She advised that MR. ELLINGWOOD was a fine man, who was standing up for his religious convictions and NORMAN LEAR-SHROEDER should not be allowed to publish any disparaging remarks against MR. ELLINGWOOD. She advised

2-Bureau (Enc. 2)
 1-Alexandria
 AJH:jcs
 (3)

ENCLOSURE ATTACHED

Approved: [signature]

Transmitted

(Number)

(Time)

Per

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17 FEB 27 1986

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that the separation of church and state was a communist plot to divide the United States and that the FBI should investigate this matter under the Hobbs Act and under a conspiracy violation.

NEAMON was unable to furnish any positive information of a Federal violation at this time. NEAMON was advised that if she wish to discuss a Federal violation concerning the above matter that she should gather all her evidence and go to the FBI Office in Alexandria, Virginia, and discuss the matter further.

SA [] searched the Criss-Cross Directory for telephone number 356-7884, and the directory listed the above telephone number to a Colonel PAUL SCORDAS of 6913 Arbor Lane, McLean, Virginia.

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b7C

Third Party

The Alexandria indices was searched concerning PAUL SCORDAS and no record was located identifiable. The Alexandria indices was searched and file number 620-1018 was located concerning ANNE NEAMON. The file contained miscellaneous information concerning Atheism and anti-Christianity information.

All individuals contacted were apprised of the provisions of the Privacy Act, and those requesting confidentiality have been so noted.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY AUC 60324/BAW/STP/cld



161-15392-103

ENCLOSURE

COMMUNIST AIMS SOLD TO AMERICANS BIT-BY-BIT!

The following list of 45 current Communist goals appeared in *The Congressional Record* January 10, 1963. They were taken from *The Naked Communist* by Cleon Skousen, who began his intensive study of the Communist Conspiracy during his 16-year term of service with the FBI.

The list confirms the "line" pursued in Communist publications in this country such as *The Worker*, *The People's World*, and a number of front publications.

Actively aided and abetted by such organizations as the National Council of Churches, The National Education Association, The American Civil Liberties Union, the Rockefeller controlled Council on Foreign Relations (*The Invisible Government in America*), The Rockefeller Foundation, The Ford Foundation, and others, the international Communist Conspiracy has managed to achieve many of these goals while you and I were asleep, dreaming *it can't happen here!* Well, IT IS HAPPENING HERE AND IT IS HAPPENING NOW right under your very nose. IT IS TIME TO WAKE UP AMERICANS!

CURRENT COMMUNIST GOALS

1. U.S. acceptance of coexistence as the only alternative to nuclear war.
2. U.S. willingness to capitulate in preference to engaging in atomic war.
3. Develop the illusion that total disarmament by the United States would be a demonstration of moral strength.
4. Permit free trade between all nations regardless of Communist affiliation and regardless of whether or not items could be used for war.
5. Extension of long-term loans to Russia and Soviet satellites.
6. Provide American aid to all nations regardless of Communist domination.
7. Grant recognition of Red China. Admission of Red China to the U.N.
8. Set up East and West Germany as separate states in spite of Khrushchev's promise in 1955 to settle the German question by free elections under the supervision of the U.N.
9. Prolong the conferences to ban atomic tests because the United States has agreed to suspend tests as long as negotiations are in progress.
10. Allow all Soviet satellites individual representation in the U.N.
11. Promote the U.N. as the only hope for mankind. If its charter is rewritten, demand that it be set up as a one-world government with its own independent armed forces. (Some Communist leaders believe the world can be taken over as easily by the U.N. as by Moscow. Sometimes these two centers compete with each other as they are now doing in the Congo.)
12. Resist any attempt to outlaw the Communist Party.
13. Do away with all loyalty oaths.
14. Continue giving Russia access to the U.S. Patent Office.

- ✓✓ 35. Discredit and eventually dismantle the FBI.
36. Infiltrate and gain control of more unions.
37. Infiltrate and gain control of big business.
38. Transfer some of the powers of arrest from the police to social agencies. Treat all behavioral problems as psychiatric disorders which no one but psychiatrists can understand or treat.
39. Dominate the psychiatric profession and use mental health laws as a means of gaining coercive control over those who oppose Communist goals.
40. Discredit the family as an institution. Encourage promiscuity and easy divorce.

- ✓ 15. Capture one or both of the political parties in the United States.
- ✓ 16. Use technical decisions of the courts to weaken basic American institutions by claiming their activities violate civil rights.
- ✓ 17. Get control of the schools. Use them as transmission belts for socialism and current Communist propaganda. Soften the curriculum. Get control of teacher's associations. Put the party line in textbooks.
18. Gain control of all student newspapers.
19. Use student riots to foment public protests against programs or organizations which are under Communist attack.
20. Infiltrate the press. Get control of book-review assignments, editorial writing, policy-making positions.
21. Gain control of key positions in radio, TV, and motion pictures.
22. Continue discrediting American culture by degrading all forms of artistic expression. An American Communist cell was told to "eliminate all good sculpture from parks and buildings, substitute shapeless, awkward and meaningless forms."
23. Control art critics and directors of art museums. "Our plan is to promote ugliness, repulsive, meaningless art."
24. Eliminate all laws governing obscenity by calling them "censorship" and a violation of free speech and free press.
25. Break down cultural standards of morality by promoting pornography and obscenity in books, magazines, motion pictures, radio and TV.
26. Present homosexuality, degeneracy and promiscuity as "normal, natural, healthy."
27. Infiltrate the churches and replace revealed religion with "social" religion. Discredit the Bible and emphasize the need for intellectual maturity which does not need a "religious crutch."
- ✓ 28. Eliminate prayer or any phase of religious expression in the schools on the ground that it violates the principle of "separation of church and state."
- ✓ 29. Discredit the American Constitution by calling it inadequate, old-fashioned, out-of-step with modern needs, a hindrance to cooperation between nations on a worldwide basis.
30. Discredit the American Founding Fathers. Present them as selfish aristocrats who had no concern for the "common man."
31. Belittle all forms of American culture and discourage the teaching of American history on the ground that it was only a minor part of the "big picture." Give more emphasis to Russian history since the Communist took over.
- ✓ 32. Support any socialist movement to give centralized control over any part of the culture, education, social agencies, welfare programs, mental health clinics, etc.
33. Eliminate all laws or procedures which interfere with the operation of the Communist apparatus.
34. Eliminate the House Committee on Un-American Activities.

41. Emphasize the need to raise children away from the negative influence of parents. Attribute prejudices, mental blocks and retarding of children to suppressive influence of parents.
- ✓ 42. Create the impression that violence and insurrection are legitimate aspects of the American tradition; that students and special-interest groups should rise up and use united force to solve economic, political and social problems.
43. Overthrow all colonial governments before native populations are ready for self-government.
44. Internationalize the Panama Canal.
45. Repeal the Connally-Reservation so the United States cannot prevent the World Court from seizing jurisdiction over nations and individuals alike.

THE INSEPARABLE

Citizens For God & Country
P.O. Box 137
McLean, VA 22101

SEPARATION-ATHEISM-TERRORISM

NEWS RELEASE

Worldwide turbulence, particularly TERRORISM, is causing the U.S. increasing concern. The offer of rewards for identifying terrorists is questionable, since it could result in international exploitations, benefitting those who disguised its suggestion!

It does not require much experience to agree that the UNESCO Great Society Programs, "are contrary to the forces which secure our liberties," President Reagan-Shultz, 1984; and to see the relation of Chief Justice Burger's admonishments, 1984, regarding the "massive corruption of attorneys and judges, threatening the survival of our institutions." The UNESCO control of education in 100 nations, through militant labor unions to change the existing moral order, is a distinct service to the Soviet Constitution, Art. 25, 52, 169, "...centralized education, propagate worldwide atheism, separation of church and state, and workers of all nations, unite..." Massive corruption of Congress initiated the propagation of separation-atheism-terrorism by such unconstitutional legislation as the Hobbs Act, 1973, which provides for force, crime, and violence by labor unions. Pitting group against group by Great Society, UNESCO programs, tax-funding propagates the culture of the minority, while denying unalienable rights to propagate the culture of the vast Christian majority. Factions are developed similar to Lebanon to pressure outbursts of cultural differences. ✓ Deceptions by falsifications of official documents, misrepresentations of favorable federal court cases, untruthful reporting on Christian history to present Christianity as not of true Divine relation, and more attempt to challenge that this is a CHRISTIAN NATION. Press smears, denial of job security, and other lawless actions forge forth to CHANGE THE EXISTING CHRISTIAN MORAL ORDER, unconstitutionally.

Overlooked in this usual anti-Christian strategy-- atheism, by necessity employing hostility for survival--is the simple fact that ONLY IN A CHRISTIAN NATION DO CHRISTIANS HAVE CIVIL RIGHTS, AS COMPATIBLE NON-CHRISTIANS, AWAY FROM THEIR FATHERLAND. DENY CHRISTIAN ETHICS IN GOVERNMENT, AND NONE, MAJORITY OR SELF-DETERMINED MINORITY, HAVE FREEDOM. The necessary militancy for atheists, however, forfeits civil rights, as mandated by the Communist Control Act, 1954. Yet, the UNESCO, from which the U. S. supposedly "withdrew" from in the budget, while providing the millions in grants to continue to produce the NEW MAN, the SOVIET MAN, THE GUERRILLA BREED FOR THE GUERRILLA WARFARE, remains in service to the Soviet Constitution! In defense against such threats to national security, Title 36, U. S. C. 172 ONE NATION UNDER GOD was passed to address the "rabid communism," intending to change the character of man, the very keystone of the arch of government. The goal is to control education, target youth, to sever each generation from the past cumulative knowledge, skills, harmony, unity, and moral order -- the very strength of a free nation! It is peculiar how in this Christian nation, ~~anti-Christians fail to perceive how they, themselves,~~ are being exploited with falsehoods about their own cultural-religious history, lured into doing the work of the very enemy which intends to deny them eventually, as the majority, rights secured by the U. S. Constitution. By such chronic agitators, it is obvious that separation-atheism-terrorism are inseparable, having a "head start" with the exclusion of school prayers by falsehoods, reprisals and bribes!

Centuries before Christianity, rulers knew it is better to be governed by conscience (self-discipline for self-government) than to be ruled by tyranny. Therefore, rulers advocated the Ten Commandments, modified and intensified in the New Testament. Knowledgeable Jews as well as Christians reject the anti-Christian movement, foreseeing its intentions to deny all fundamental rights. If world peace is to be restored, the U. N. UNESCO - Congressional supports must be disconnected, with legal accountability for "aid and comfort to the enemy," Constitutionally defined as TREASON! Correction requires revival of President Eisenhower's Executive Order, 10540, compelling Constitutional loyalty. First, the FBI must be liberated from Item 35, current communist goals, "Discredit and eventually dismantle the FBI." Until law-enforcement is freed from Senate corrupt controls ~~intercepting justice as it does now,~~ Congressional exploitations and subversion will continue to undermine the Constitution, which is signed in the YEAR OF OUR LORD:

OVER

Citizens for God & Country

*Legislative Advisory Service to secure
First Amendment Neutrality to Godly Religions in all
aspects of public service and public living.*

August 1, 1985

*Anne Neamon
National Coordinator
P. O. Box 137
McLean, Virginia 22101*

Dear Mr. Fielding:

Regarding the nomination of Mr. Herbert E. Ellingwood for Assistant U. S. Attorney General, CGC recommend his appointment highly.

Mr. Ellingwood has performed in accordance with the E. O. 10540, President Eisenhower directive to retain unswerving loyalty to the U. S. regardless of pressures to do otherwise. Mr. Ellingwood has performed in service to his OATH, A RELIGIOUS COMMITMENT, to defend the Constitution against all enemies foreign and domestic. Though opponents as the People for the American Way, and Congresswoman Shroeder are unaware that the Constitution is signed in the YEAR OF OUR LORD, and that the founding principles are based on "...Christianity...the common law...nothing be done to hurt Christianity...Bring infidels and savages unto human civility for a quiet and settled government...Enter into confederations to preserve and maintain the true Gospel of the Lord Jesus...the morality of the nation is deeply ingrafted upon Christian faith...This is a Christian nation..." -- though these Surpeme Court consistently repeated facts have been made clear into current cases, as the judicial support for the Nativity Scene..., the opponents persist to attack by overt actions any defenders who remain loyal to their Oath to administer by DIVINE LAW.

All free nations in western civilization administer for stability of justice by Christian ethics. Do anti-Christians, who make their presence overbearing by undermining the Constitution propagate Christain ethics for the essential moral order to defend against invading corruption?

Mr. Ellingwood, has remianed true blue to his Oath, and the White House should not retreat from stepping forth to defend the Constitution as all incumbents in the White House are compelled to do with the similar loyalty of Mr. Ellingwood. There should not ba any timidity, or alternation on going ahead with Mr. Ellingwood's appointment as Assistant U. S. Attorney General. Enclosed is a copy of the MEANING OF TEH OATH OF OFFICE. You will find that Mr. Ellingwood has performed with consistent loyalty, and that is the essence

"We are a Christian Nation ... nothing can be done to hurt Christianity." Holy Trinity v. U. S. "Secularism is Unconstitutional ... it is the duty of government to deter no-belief religions; government facilities cannot offend religious principles ... Atheists go their own way ... they do not interfere (with values of Christian nation) ... Neutrality within Christian community, not separation was intended and required (Free Exercise is for all by private arrangements, but the government remains loyal to Christian foundings.) Prayers and Bible reading by official encouragement for love of country and belief in God are permitted "We cannot overlook the fact that we are a Religious (bona fide Godly)

for the nomination. As for the political hassles, and the manipulations for personal gains by the Senators, that is a hurdle we must all address, and support Mr. Ellingwood through the controls of Norman Lear by his financial controls over the political key Congressional incumbents.

Indeed, Congress will play its usual games; but with the Constitutional obligations involved for all, even for politicians who are subordinate, indeed, to the Constitution -- for that was the purpose of the Constitution -- for all purposes of the Nomination Hearings, Mr. Ellingwood is fully qualified.

The Constitutional "no religious test" related to within the Christian community, and not to the Norman Lear-Shroeder totalitarianism to advance the Soviet Constitution, Art. 52 SEPARATION OF CHURCH AND STATE, PROPAGATE WORLDWIDE ATHEISM! Holy Trinity v U. S. , 1892, Everson, 1947, and later cases.

If the Justice Department is to perform in the interest of Justice, which is based on the common Christian culture, common law, divine law by concepts of western civilization, then we must stand firm that the Constitution is CHRISTIAN ETHICS AND WHO BUT THOSE NON-HOSTILE TO THIS CULTURE WILL PROPAGATE JUSTICE! Mr. Ellingwood is very capable of fulfilling the vital position, and to judge on the integrity of worthiness of public trust of nominees for judges, and whatever responsibility might be his obligation.

Notice, Title 36, U. S. C. 172 ONE NATION UNDER GOD, was passed to address "rabid communism" which attempts to change the very character of man, the arch of the government. This is what President Reagan-Shultz, 1984 denounced referring to the UNESCO, Great Society Programs, Federal Aid to education, communications, welfare... Chief Justice Burger, 1984, 1985 admonished the "massive corruption of judges, threatening the survival of our institutions!" All this reflects on the past performance of the former Justice Department key authority which permitted such corruption. The nation needs to recover its institutions from invasions by corruption. Mr. Ellingwood is well-informed to distinguish who would be appropriate to serve, donned in black robes, reminders of serving as "ministers of God" by Divine Law.

The antagonistic comments of the People for the American Way and Mrs. Shroeder are based on the Soviet Constitution, communistic alien enemy doctrines, threatening the survival of our institutions. The simple question is WHOSE CONSTITUTION WILL THE WHITE HOUSE ADMINISTER -- U. S. OR U. S. S. R.? Mr. Ellingwood would not have to hesitate, subordinate to corruption of political power plays, nor find answers difficult on abortions, for the Court has consistently ruled, the facilities of government cannot be used to commit inhibition, handicap, hostility, prohibition, jeopardy to founding Christian principles for these values structure the Constitution, institutions, and laws. Naturally, alien enemies will propagate their contrary culture. Do defending officials remain unconstitutionally passive? The likes of Mr. Ellingwood should have wholehearted support from the highest official authorities, who, themselves, have no options but to fulfill their OATH, WHETHER IN POLITICS, OR NOT!

Please support Mr. Ellingwood ALL THE WAY.

Sincerely,

Anne Neamon

6304 7-17
FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE SAN FRANCISCO	OFFICE OF ORIGIN BUREAU	DATE 8/09/85	INVESTIGATIVE PERIOD 8/09/85
TITLE OF CASE HERBERT EUGENE ELLINGWOOD ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-30-2007 BY AUC 60324/BAW/STP/cld		REPORT MADE BY SA 	TYPED BY bjb
		CHARACTER OF CASE SPECIAL INQUIRY	

REFERENCE: Butel to San Francisco, dated 7/24/85; and San Francisco telcall to Bureau, 8/07/85.

- RUC -

ADMINISTRATIVE

Where appropriate, Privacy Act (e)(3) data was furnished to persons interviewed. Express promises of confidentiality, both limited and unlimited, have been noted where granted.

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Third Party

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
CONVIC.	PRETRIAL DIVERSION	FUG.	FINES	SAVINGS	RECOVERIES			

APPROVED 1256/L	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW
COPIES MADE: 1 copies to White House 8-19-85 ② - Bureau (Attn:) Room 5161 - SPIN Unit) 1 - San Francisco (161B-3605)		161-15392-104 NOT RECORDED 17 FEB 27 1986

Dissemination Record of Attached Report					Notations 6-JRE
Agency					
Request Recd.					
Date Fwd.					
How Fwd.					
By					

57 APR 1 1986

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COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:

SA [REDACTED]

Office:

San Francisco

Date:

8/09/85

Field Office File #: 161B-3605

Bureau File #:

161-15392

Title:

HERBERT EUGENE ELLINGWOOD

Character:

SPECIAL INQUIRY

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b7C

Third Party

Synopsis:

MARY S. WAILES, Secretary, State Bar of California, stated that she could not confirm nor deny if Appointee's name was sent to the State Bar from the Governor's Office for recommendation on a nomination to a state judgeship.

- RUC -

DETAILS:

[REDACTED] The following investigation was conducted by SA [REDACTED]
[REDACTED] on August 9, 1985:

AT SAN FRANCISCO, CALIFORNIACALIFORNIA STATE BAR

MARY S. WAILES, Secretary, State Bar of California, telephone (415) 561-8370, stated that she could not confirm nor deny if Appointee's name was sent to the State Bar from the Governor's Office for recommendation on a nomination to a state judgeship. WAILES advised that the State Bar records are highly confidential and reportings to the Governor's Office concerning the State Bar's recommendations would not state the reason for the Bar's opinion.

WAILES advised that the U.S. Attorney General EDWIN J. MEESE was a member of the then Governor REAGAN's cabinet, along with Appointee, and may have knowledge of the situation.

SF 161B-3605
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WAILES stated that she is fully aware of the importance of the FBI investigation concerning Appointee and that she may be approached by the Senate Committee in this matter.

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FEDERAL GOVERNMENT

AUG 19 1985

BY COURIER

8-19-85
agw

Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D. C.

Dear Mr. Fielding:

Reference is made to our letter dated July 26, 1985, which furnished you partial results of an investigation concerning Mr. Herbert Eugene Ellingwood. This letter provides you the results of the remainder of the investigation. We consider the investigation to be complete.

Enclosed are copies of the following documents:

- (1) A report of the Sacramento Field Office Office, dated July 30, 1985;
- (2) A report of the Washington Field Office, with enclosures, dated August 2, 1985;
- (3) A letter of Mr. Bruce Mayor, Deputy General Counsel, Merit Systems Protection Board (MSPB), to the FBI, with enclosed telephone records, dated August 2, 1985;
- (4) A report of the San Francisco Field Office, dated August 9, 1985; and
- (5) Newspaper articles from the Los Angeles Times and Sacramento Bee concerning Mr. Ellingwood's 1974 nomination to a California state judgeship. (The articles were provided by Anthony T. Podesta, People For The American Way, to the FBI on July 24, 1985.)

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Third Party

Exec AD Adm. _____
Exec AD Inv. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Insp. _____
Intell. _____
Lab. _____
Legal Coun. _____
Off. Cong. & Public Affs. _____
Mgmt. _____

1 - Deputy Attorney General
(ATTN: Mr. Jay B. Stephens)

JLE/EHL:vm

RETURN TO

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17 FEB 27 1986

ROOM 5158

Honorable Fred F. Fielding

As the letter of July 26, 1985, indicated, the additional investigation that we have conducted concerned three specific allegations made against Mr. Ellingwood. Those allegations were: (1) That Mr. Ellingwood is involved with a "Christian talent bank" which allegedly subverts the Civil Service/merit principles upon which Government employment is based; (2) That Mr. Ellingwood's nomination for a California judgeship in 1974 was opposed by state and local bar associations; and (3) That Mr. Ellingwood improperly used HSPB telephones for numerous international telephone calls of a personal nature.

Two individuals closely associated with the American Coalition for Traditional Values (ACTV) and the so-called "Christian talent bank" have been interviewed. (See the report of the Washington Field Office, dated August 2, 1985.) Both advised that Mr. Ellingwood has had no direct involvement with ACTV and the talent bank. They explained the purposes and operation of the talent bank, which they refer to as the Government Service Advisory Program, and they provided pamphlets and other material describing the talent bank. (These items are enclosures to the attached Washington Field Office report.)

In 1974, Mr. Ellingwood was nominated by the then-Governor of California, Ronald Reagan, to a seat on the Third District Court of Appeals of the State of California. Mr. Ellingwood did not receive this judgeship. According to newspaper articles we have enclosed, the Sacramento County Bar Association (SCBA) opposed Mr. Ellingwood's nomination because he lacked experience as a trial court judge. An individual was recently interviewed who was the President of the SCBA in 1974. (See the report of the Sacramento Field Office, dated July 30, 1985.) He confirmed that the opposition to Mr. Ellingwood's nomination was due only to his lack of judicial experience, and advised further that he does not question the integrity or character of Mr. Ellingwood.

The newspaper articles also state that then-Governor Reagan requested a confidential report concerning the nomination from the Board of Governors of the State Bar of California. An official of the State Bar was recently contacted, but she stated that the records of the Bar are highly confidential and she refused to confirm or deny that Mr. Ellingwood's name was sent to the Bar for a recommendation. (See the report of the San Francisco Field Office, dated August 9, 1985.) She did state,

Honorable Fred F. Fielding

however, that both Mr. Ellingwood and Attorney General Edwin Meese may have knowledge of this matter.

Several interviews were conducted at MSPB concerning the accusation of telephone misuse by Mr. Ellingwood. (See the report of the Washington Field Office, dated August 2, 1985.) According to the persons interviewed, MSPB has not received allegations of misuse of MSPB telephones by Mr. Ellingwood, and therefore has never conducted an investigation based on such allegations.

The General Counsel's Office of MSPB has provided the FBI with records for the MSPB telephone lines assigned to Mr. Ellingwood and with records for Mr. Ellingwood's government-issued telephone credit card. (See the letter of Mr. Bruce Mayor, dated August 2, 1985.)

The telephone records provided do not reveal any international telephone calls charged directly to the telephone lines assigned to Mr. Ellingwood. The records do show numerous domestic long distance calls billed to Mr. Ellingwood's lines, and international calls billed to other lines at MSPB. The records for Mr. Ellingwood's credit card show two international calls in February, 1984. One call was from Singapore to Mr. Ellingwood's office, and the other from Hong Kong to his office. The credit card records also show numerous long distance calls within the United States.

Several points should be made concerning the telephone records and our investigation:

(1) The telephone records provided to us date from August, 1983, and continue through to May, 1985, with two exceptions. The records for October, 1984, and April, 1985, have not yet been located. Unless you advise us to the contrary, we will not make further efforts to obtain the records for these two months. We base this decision on the fact that the allegation of telephone misuse was made prior to October, 1984.

(2) The telephone records do not cover Mr. Ellingwood's entire term of service at MSPB. According to the MSPB General Counsel's office, records dating from before August, 1983, have been destroyed pursuant to standard destruction policies. However, the allegation was initially received by Congresswoman Patricia Schroeder, Committee on Post

Honorable Fred F. Fielding

Office and Civil Service, Subcommittee on Civil Service, Washington, D. C., in January, 1984. Thus, the records for the five-month period from August, 1983, to the receipt of the allegation in January, 1984, would seem quite relevant.

(3) Furthermore, the specific allegation made against Mr. Ellingwood was that "thousands of dollars worth of overseas FTS calls are being placed from the Chairman's phone." (See page 22 of the report of the Washington Field Office, dated August 2, 1985.) The records reviewed do not support this accusation. The allegation, made in January, 1984, is in the present tense. Therefore, the records we have reviewed should be adequate to assess the validity of the specific allegation.

K. William O'Connor, Special Counsel, MSPB, was interviewed on July 24, 1985. (See the Washington Field Office report, dated August 2, 1985.) He advised that his office has conducted a total of three investigations concerning Mr. Ellingwood. One involved the talent bank and, according to Mr. O'Connor, his office chose not to investigate this issue actively in that they believed the allegation to be frivolous. The second investigation concerned the "Gretchen Thomas Affair." The official comments of Mr. O'Connor's office concerning that matter appear in a letter of Mr. O'Connor to the FBI, dated July 24, 1985, which is an enclosure to the attached Washington Field Office report.

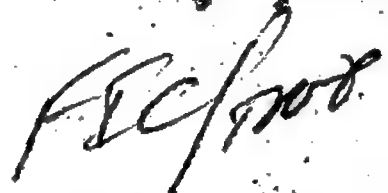
The third investigation by Mr. O'Connor's office concerned the possibility that Mr. Ellingwood used his influence to stall an MSPB investigation. A report of this investigation (MSPB Special Counsel's file number 20-2-00048) is included with Mr. O'Connor's letter of July 24, 1985. Mr. O'Connor's office found no evidence of impropriety on Mr. Ellingwood's part. The FBI will not conduct any active investigation concerning this matter unless advised to the contrary by you.

Finally, we note that the attached report of the Sacramento Field Office, dated July 30, 1985, contains a newspaper article regarding Mr. Ellingwood that raises an issue not previously explored in this background investigation. The article is from the Sacramento Bee and is dated August 12, 1980. It is about an allegation that Mr. Ellingwood, while in private law practice, used his political influence to obtain an improper delay of a hearing scheduled for a client of his. The client was a doctor who was charged with sexually molesting patients.

Honorable Fred F. Fielding

However, the article also contains information rebutting this allegation. No active investigation of this matter will be conducted by the FBI unless you advise us to the contrary.

Sincerely yours,



Floyd I. Clarke
Assistant Director
Criminal Investigative Division

Enclosures (5)

Honorable Fred F. Fielding

NOTE: Copies of the following documents sent to the White House:

<u>Date</u>	<u>Item</u>
7/30/85	Sacramento Field Office Report
8/2/85	Washington Field Office Report with enclosures
8/2/85	Letter from Bruce Mayor, Deputy General Counsel, MSPB, with telephone records
8/9/85	San Francisco Field Office Report
--	Newspaper articles from <u>Los Angeles Times</u> and <u>Sacramento Bee</u>

of me.
"Copy/furnished
to DOJ (SO)
on 6-25-86 IAB: *agw*



U.S. Department of Justice

FEDERAL GOVERNMENT

MAY 22 1986

Washington, D.C. 20530

MT
ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10-09-2007 BY AUC 60324/BAU/STP/cld

MAY 21 1986

The White House
Assistant to the Counsel
to the President (Security)
Office of Security
Washington, D.C. 20500

Attention: Ms. Jane Dannenour

Dear Ms. Dannenour:

Ellingwood, Herbert Eugene

This is in reference to a telephone conversation this staff had with your office, on May 16, 1986, regarding Reva Keith and Herbert Ellingwood. Enclosed please find pertinent data on Ms. Keith and Mr. Ellingwood. Please authorize the Federal Bureau of Investigation (FBI) to release copies of Ms. Keith's and Mr. Ellingwood's FBI Background Investigations to me for security clearance purposes. Please return the enclosure to this office with the appropriate authorization.

Should you have any questions regarding this request please call me on 633-2094.

Sincerely,

for Charles Allinson
D. Jerry Rubino
Department Security Officer

Enclosure

Reed from WIT
Letters dated 8-19-85 and 7-26-85 and results of 1985 investigation and summary memoranda dated 5-8-81 and 4-30-81 re ELLINGWOOD and summary memorandum dated 6-24-81 re KEITH furnished to DOJ on 6-25-86.

DEC 15 1986

161-15392-106
17 AUG 12 1986

b6

b7C

Third Party

Authority is requested for the release to the Department of Justice the Background Investigations performed by the Federal Bureau of Investigation on:

b6
b7C

KEITH, Reva Joyce
DOB: October 11, 1942
POB: Summerville, Georgia
SSN:

ELLINGWOOD, Herbert E.
DOB: March 5, 1931
POB: Ordway, Colorado
SSN: 726-09-4567

VERIFIED
MAY 23 1986

-2-

AUTHORIZATION TO RELEASE

161-15392-100
ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10-09-2007 BY AUC 60324/BAW/STP/cld

Exec AD Adm. _____
Exec AD Inv. _____
Exec AD LES _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Insp. _____
Intell. _____
Lab. _____
Legal Coun. _____
Off. Cong. &
Public Affs. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Telephone Rm. _____
Director's Sec'y _____

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Third Party

JUSTICE
UPDATE UP034

77-140317

WASHINGTON (UPI) -- ATTORNEY GENERAL EDWIN MEESE IS RECOMMENDING THE APPOINTMENTS OF FOUR PEOPLE TO HEAD DIVISIONS IN THE JUSTICE DEPARTMENT, NATIONAL PUBLIC RADIO REPORTS.

CAROLYN KUHL, DEPUTY ASSISTANT GENERAL IN THE CIVIL DIVISION, WILL BE NAMED TO SUCCEED WILLIAM BRADFORD REYNOLDS AS ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS, NPR SAID THURSDAY, CITING UNIDENTIFIED ADMINISTRATION SOURCES.

ATTORNEY GENERAL EDWIN MEESE RECOMMENDED REYNOLDS' NOMINATION TO BE THE NO. 3 MAN IN THE DEPARTMENT, NPR SAID.

REYNOLDS, WHO WAS PREVIOUSLY NOMINATED FOR THE JOB AS ASSOCIATE ATTORNEY GENERAL, FACES TOUGH CONFIRMATION HEARINGS NEXT WEEK BEFORE THE SENATE JUDICIARY COMMITTEE. 161-9522

CHARLES COOPER, DEPUTY ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS, WILL REPORTEDLY HEAD THE OFFICE OF LEGAL COUNSEL, WHICH PROVIDES LEGAL COUNSEL TO THE ATTORNEY GENERAL.

COOPER AND KUHL, NPR REPORTED, WERE STRONG ADVOCATES OF GIVING TAX EXEMPT STATUS TO SEGREGATED SCHOOLS. THE ADMINISTRATION ENDORSED THE CONTROVERSIAL POLICY BUT IT WAS OVERTURNED BY THE SUPREME COURT. (C)

HERBERT ELLINGWOOD, NOW HEAD OF THE MERIT SYSTEMS PROTECTION BOARD, WILL LIKELY HEAD THE OFFICE OF LEGAL POLICY, WHICH SCREENS AND RECOMMENDS JUDICIAL NOMINEES. NPR DESCRIBED ELLINGWOOD AS A FRIEND OF MEESE. 161-15392-107

RICHARD WILLARD, ACTING ASSISTANT ATTORNEY GENERAL FOR THE CIVIL DIVISION, WOULD TAKE OVER THAT JOB ON A PERMANENT BASIS. 161-16771

MEESE HAS REPORTEDLY NOT YET TOLD REPUBLICANS IN CONGRESS OF HIS CHOICES AND IF THEY HAVE ANY MAJOR OBJECTIONS, HE MAY RECONSIDER, REPORTED.

UPI 05-31-85 02:35 PED

58 NOV 13 1987

WASHINGTON CAPITAL NEWS SERVICE file

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SEP 29, 1987

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